

The motion to lay on the table subject to call is pending.

Adjournment.

At 5:35 o'clock p. m. Senator Clark moved that the Senate adjourn until 9:30 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Enrolling Committee Report.

Committee Room,
Austin, Texas, Sept. 19, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Enrolled Bills beg leave to report that we have carefully compared Senate Bill No. 14, copy of which accompanies this report, and find the same correctly enrolled and have this day at 11 o'clock a. m. presented same to the Governor for his approval.

SMITH, Chairman.

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,
Thursday, Sept. 20, 1917.

The Senate met at 9:30 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Dechierd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Prayer by the Chaplain.

Pending the reading of the Jour-

nal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Excused.

Senator McCollum, for yesterday, on account of important business, on motion of Senator Johnson of Hall.

Senators Dayton and Parr, for yesterday, on account of important business, on motion of Senator Gibson.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Bills and Resolutions.

By Senator Dayton:

S. B. No. 28, A bill to be entitled "An Act providing for the assignment of able-bodied male persons between the ages of 19 and 50 years, inclusive, not regularly and continuously employed, to work in occupations carried on by the State, the counties of the State, the cities of the State, or by private employers, whenever, because of a state of war, the Governor determines such assignments to be necessary for the protection and welfare of the State, and find such occupations essential for the protection and welfare of the United States and this State, and that same can not be carried on as the State shall require without resort to this Act, no person to be assigned to any work he is not physically able to do; and providing for the procedure and means for rules and regulations for carrying this Act into effect, and for compensations to persons so assigned to work, and for penalties for non-compliance with this Act; and declaring an emergency."

Read first time and referred to Committee on Military Affairs.

By Senator Dean:

S. B. No. 29, A bill to be entitled "An Act to create a more efficient road system for Madison County or any political subdivision of said county by a vote of two-thirds ma-

majority of the resident property taxpayers, etc., and declaring an emergency."

Read first time and referred to Committee on Roads, Bridges and Ferries.

By Senators Hudspeth, Clark and Henderson:

S. B. No. 30, A bill to be entitled "An Act to amend Sections 3, 12, and 16 of Chapter 190 of the Acts of the Regular Session of the Thirty-fifth Legislature, creating a 'State Highway Department,' and which sections relate to powers, duties and compensation of the State Highway Commission; to the allotment of highway funds in aid of road construction; and to the annual fees for registration of motor vehicles and motorcycles."

Read first time and referred to Committee on Roads, Bridges and Ferries.

Message from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 28, A bill to be entitled "An Act to create a more efficient road system for Trinity County."

H. B. No. 27, A bill to be entitled "An Act creating the Ben Wheeler Independent School District in Van Zandt County."

S. B. No. 13, A bill to be entitled "An Act to establish and maintain at the Ferguson State Farm, in Madison County, or the Shaw State Farm in Bowie County or State Farm in Brazoria County, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as the State Training School for Negro Boys, etc., and declaring an emergency," passed with amendments.

Refused to adopt the Free Conference Committee report on Senate Bill No. 8 and ask the committee to submit another report. The conferees of the House are instructed to adhere to the House amendment.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tem. Dean, had referred after their captions had been read, the following House bills:

H. B. No. 28, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 27, referred to the Committee on Educational Affairs.

Morning call concluded.

Simple Resolution No. 18—Vote Rescinded.

The Chair laid before the Senate as pending business the written motion of Senator Henderson to rescind the vote by which the Senate adopted the motion of Senator Westbrook, which was to table the motion to reconsider the vote by which Simple Resolution No. 18 was passed.

The question being upon the motion of Senator Henderson to lay the written motion on the table subject to call.

Senator Westbrook moved to table the motion to lay on the table subject to call and this motion prevailed.

Action then recurred upon the written motion to rescind and the same was adopted by the following vote:

Yeas—25.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Parr.
Decherd.	Robbins.
Floyd.	Smith.
Gibson.	Suiter.
Harley.	Westbrook.
Henderson.	

Nays—1.

Clark.

Absent.

Caldwell.	Strickland.
Hall.	Woodward.
Johnston of Harris.	

By unanimous consent Senator Westbrook withdrew his motion to table the motion to reconsider the vote by which Simple Resolution No. 18 was adopted.

Action then recurred upon the motion of Senator Westbrook to reconsider the vote by which Simple Resolution No. 18 was adopted and the motion to reconsider prevailed.

Senator Westbrook offered the following amendment:

(1) Amend the resolution by striking out the figures "eleven" wherever they occur and insert in lieu thereof the figures "ten."

Senator Henderson offered the following substitute for the pending amendment:

Amend the resolution by striking out the words and figures "eleven" wherever they occur and insert in lieu thereof the words and figures "three."

Senator Westbrook moved to table the substitute and moved the previous question on the motion to table and on the adoption of his amendment, which being duly seconded, the main question was ordered.

The motion to table the substitute prevailed by the following vote:

Yeas—20.

Alderdice.	Hudspeth.
Buchanan of Scurry.	Johnson of Hall.
Caldwell.	Johnston of Harris.
Clark.	Lattimore.
Collins.	McCollum.
Dayton.	McNealus.
Dechierd.	Parr.
Floyd.	Smith.
Gibson.	Sulter.
Hopkins.	Westbrook.

Nays—6.

Bailey.	Harley.
Bee.	Henderson.
Buchanan of Bell.	Page.

Present—Not Voting.

Dean.

Absent.

Hall.	Strickland.
Robbins.	Woodward.

Action then recurred upon the pending amendment and the same was adopted.

Senator Page offered the following amendment which was read and adopted:

(2) Amend the resolution by adding thereto the following: "Provided, that said investigation shall not consume more than sixty days and no member shall be paid except for services actually rendered and in no

event for more than sixty days' service.

PAGE,
McNEALUS.

Senator Westbrook moved the previous question on the adoption of the resolution which being duly seconded was so ordered.

The resolution as amended was then adopted.

Senator Westbrook moved to reconsider the vote by which the resolution was adopted and table the motion to reconsider.

The motion to table prevailed.

Simple Resolution No. 22.

(By unanimous consent.)

Whereas, An ex-member of the House of Representatives, C. W. Cotton, of Hamilton County, is now in the Capitol

Resolved, That he be extended the privileges of the floor and be invited to address the Senate.

BUCHANAN of Bell.

The resolution was read and adopted.

The Chair appointed a committee and Hon. C. W. Cotton was escorted to the President's stand and addressed the Senate briefly.

The Court Postponed.

The time having arrived for the convening of the Court, Senator Hudspeth moved that the morning session of the Court be postponed ten minutes.

The motion prevailed.

Senate Bill No. 26.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 26, A bill to be entitled "An Act to authorize the Commissioners Court of Brewster County, State of Texas, by a majority vote to issue scrip payable from one to twenty years from date, bearing interest at the rate of not to exceed six per cent; for the purpose of taking up the present indebtedness of the county incurred for the building of roads and bridges in said county;

providing that the yearly net revenue, less the necessary sinking fund to cover said scrip issue, may be used by the commissioners' court of said county in repairing and building roads and bridges, and declaring an emergency."

The committee report that the bill be not printed was adopted.

Senator Smith offered the following amendments which were read:

(1) Amend the caption of Senate Bill No. 26, lines 1 and 2, by striking out the words "Brewster County" and insert in lieu thereof the words "the counties of Brewster and Rusk."

(2) Amend the caption of Senate Bill No. 26, line 5, by striking out the word "the county" and insert in lieu thereof the words "said counties."

(3) Amend the caption of Senate Bill No. 26, line 6, by striking out the word "county" and insert in lieu thereof the word "counties."

(4) Amend the caption of Senate Bill No. 26, line 6, by striking out the word "on" and insert in lieu thereof the word "in."

(5) Amend the caption of Senate Bill No. 26, line 9, by striking out the word "county" and insert in lieu thereof the word "counties."

(6) Amend Senate Bill No. 26, Section 1, lines 1 and 2 of said Section by striking out the words "County of Brewster" and inserting in lieu thereof the words "counties of Brewster and Rusk."

(7) Amend Senate Bill No. 26, Section 1, by striking out the period after the last word in said section and by inserting in lieu of said period a semicolon, and by adding thereafter the following: "and provided further that the yearly net revenue, less the necessary sinking fund to cover said scrip, may be used by the commissioners court of said counties in repairing and building roads and bridges."

(8) Amend the bill, Section 1, lines 6 and 7 of said section, by striking out the word "county" wherever it appears in said lines 6 and 7 and inserting in lieu thereof the word "counties."

(9) Amend the bill, Section 2, line 1 of said section, by striking out the word "county" and inserting in lieu thereof the word "counties."

(10) Amend caption, lines 1 and 8, by striking out the word "court"

and inserting in lieu thereof the word "courts."

(11) Amend Section 1, line 1 of said section, by striking out the word "court" and inserting in lieu thereof the word "courts."

Senator Parr offered the following amendments to the foregoing amendments:

Amend amendment 1 by striking out the word "and" before the word "Rusk" and inserting in lieu thereof a comma, and by striking out the period after the word "Rusk" and inserting in lieu thereof a comma and by adding after said comma the following: "Jim Wells, Jim Hogg, Starr, Zapata and Duval."

Amend amendment 6 by striking out the word "and" before the word "Rusk" and inserting in lieu thereof a comma and by striking out the period after the word "Rusk" and inserting in lieu thereof a comma and by adding after said comma the following: "Jim Wells, Jim Hogg, Starr, Zapata and Duval."

The amendments to the amendments were adopted.

Action recurred upon the pending amendments of Senator Smith and the same were read and adopted as amended, seriatim.

The bill was read second time and passed to engrossment.

On motion of Senator Hudspeth, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 26 put on its third reading and final passage by the following vote:

Yeas—22.

Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Dayton.	Lattimore.
Dean.	McNealus.
Decherd.	Parr.
Floyd.	Robbins.
Gibson.	Smith.
Harley.	Strickland.
Henderson.	Westbrook.

Nays—1.

Sulter.

Absent.

Alderdice.	Hall.
Caldwell.	McCollum.
Clark.	Page.
Collins.	Woodward.

The bill was laid before the Senate and read third time.

Senator Lattimore offered the following amendment:

Amend Senate Bill No. 26 by striking out the amendments heretofore adopted, except numbers 4 and 7.

Senator Parr moved to table the amendment.

Pending.

The Senate as Court of Impeachment.

PROCEEDINGS.

Thursday, September 20, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate, sitting at a High Court of Impeachment, reconvened at 10:35 o'clock a. m., the regular time of 10 o'clock a. m., set for the reconvening of the Court, having been extended by the Senate on motion to 10:35 a. m.)

Hon. W. L. Dean, President Pro Tempore, presiding.

The Board of Managers and their counsel were present.

The Respondent and his counsel were present.

The Chair: The time has arrived for the convening of the Court of Impeachment. The Sergeant-at-Arms will proclaim the convening of the Court, and see that no one remains within the Chamber except those entitled to remain in the Chamber, and will see that the bar is cleared of all except those privileged to be within the bar.

Sergeant-at-Arms (at the door of the Senate): Oyez! Oyez! Oyez! the Senate, sitting as a High Court of Impeachment, is now in session.

Senator Strickland: Mr. President.

The Chair: The Senator from Anderson.

Senator Strickland: I would like to know what steps have been taken to bring Otto Wahrmond before the Court? I have a right to ask that question.

The Chair: Subpoena has been issued for the party named and returned not found—or no return made on it.

Senator Strickland: No return made?

The Chair: It seems not.

Senator Strickland: Any effort to obtain service?

The Chair: The Chair is unable to state.

Senator Clark: I rise to a point of order.

The Chair: There was an understanding that no publicity would be made of any of these matters, however, pending an effort to obtain service of any of the subpoenas.

Senator Clark: Mr. President.

The Chair: The Senator from Fayette.

Senator Clark: Isn't that a matter left to the attorneys on both sides, and that no individual Senator can inquire into that?

The Chair: A member of the Court might inquire, if he thought proper to do it; it is a matter, though, that rests largely, it occurs to the Presiding Officer, within the discretion of the parties. (To counsel): Are you ready, gentlemen?

General Crane: Yes, sir.

Thereupon the respondent,

JAMES E. FERGUSON,

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

Cross Examination Continued By General Crane.

Q. Governor, you read yesterday a statement of an editorial in the Daily Texan, college paper, in reference to voting for the election of a darkey for Governor?

A. Yes, sir.

Q. Was this number of the Texan of December 3rd, I believe it is, not called to your—following that, not called to your attention and this editorial type on that page (handing bound volume of the Texan to the witness)?

Senator Bee: What are you reading from, General?

Mr. Harris: The Daily Texan.

General Crane: Calling his attention to the Daily Texan for—

Mr. Hanger: December 3rd.

General Crane: I believe it is December 3rd, but I am not sure, I am trying to fix the date.

A. I do not recall having read this article.

Q. You do not remember having read that?

A. I may have—I don't recall having read it.

Q. At any rate, you did not mention it in your speech?

A. No, sir.

General Crane: We offer this now.

Senator Floyd: Will the Chair ask counsel to get the exact date of that?

General Crane: Sir?

Senator Floyd: I would like to get the exact date of that?

General Crane: Yes, sir, I will give you the exact date. It is of date December 3, 1916, it is the Daily Texan; and I will also read the editorial staff (reading):

"Issue editor today, J. W. Dickey; R. D. Nail, associate editor. Reporters, Lee Roy Smith, O. F. Brown, R. D. Nail, W. A. Naugle, B. V. Baucom, Sewell Johnston, Claud L. Moore, J. T. Garner, Mildred Gladney, Helen C. Diehl, Hazel Edwards, Elizabeth Minor, Asie Lee Fish."

The editorial referred to is (reading):

"Our Assurance to the Governor.

"In the issue of the Daily Texan carrying the report of the general election, there appeared a short article on the front page, which we considered at the time, and are now firmly convinced, was an outburst of purely student prankishness. The article referred to the Governor in ambiguous terms, which were capable of misconstruction.

"This article was of type from which, unfortunately, a purely student publication cannot be freed. Taking in the spirit in which we are convinced from careful investigation, the article was written and published, no reflection upon the Governor can be drawn.

"Our attention has been called to the fact that the misconstruction of which we admit it to be capable, has been placed upon this article. We have carefully investigated the circumstances attending the publication, and we wish to assure the Governor that no disrespect toward him was intended, and that the inference drawn was beside the intent which occasioned its publication.

"The Texan is a student publication, with six different night editors working each week. More than seventy students are engaged in work on the paper. They are not experienced newspaper men, nor would we have them as such, for the real purpose of the paper is to teach the students working on it some things about news-gathering and reporting. Under the system of purely student man-

agement, we have grown from a semi-weekly to the largest daily in the South. Under the system of student supervision we have published two of the largest Home Coming editions ever published by a college daily anywhere. We are working for the best interests of the University, as is the Governor of our State and the president of our University. Articles have appeared this year concerning both of these men, which if construed in the opposite light for which they were intended, could be made the height of disrespect. The truth of the matter is that at no time did we, as students, seek to place our Governor, our president, nor anyone else who had the interest of the University at heart, in a light unbecoming to us as students, and a reflection upon us as a component part of the entire educational system.

"We hope that the Governor will find in the circumstances sufficient basis for discrediting any attempt to read into the incident an effort to be discourteous toward him.

"We add our assurance in behalf of the staff, and hope that the Governor will not permit anyone to arouse in him any resentment toward the Daily Texan or the students who publish it."

General Crane: We now offer another short editorial from the same paper in its issue of November 10, 1916, headed—(reading):

"Prexy in North.

"Will speak at educational conventions. Misses Regents' meeting.

"President R. E. Vinson left yesterday morning on a speaking tour in the East. He will be gone until after the meeting of the Board of Regents here November 19. The President will first go to Washington, D. C., to attend the meeting of the National Association of State Universities, November 13 and 14. From Washington, he will go to Durham, N. C., to be present at the meeting of the Association of Colleges and Seminary Schools of the Southern States.

"This trip will make it impossible for President Vinson to be here when the report of the Regent inquiry will be made prior to publication."

General Crane: Now, we offer another short editorial in the paper of November 23, 1916, headed—

"Vinson Returns from Long Trip.

"President Vinson returned a few days ago from Washington City, where he attended the annual meeting of the Associations," etc.

I will not read it all, but simply offer it for the purpose of showing the absence of the president from the city and State, and his return at that date, and the policies that followed.

Q. (By General Crane, resuming): I believe, Governor, that Mr. Doughty was your choice for president of the University—you so stated in the House, did you not?

A. No, sir. I said I thought he would make a good president.

Q. Didn't you talk to the Board of Regents, advocating his interests?

A. No, sir.

Q. Did you talk to any one of them on that line?

A. No, sir, I don't recall that I did.

Q. Yes?

A. Any further—I might have expressed, I don't even recall having done that—I said I thought he would make a good president.

Q. Yes, you had him in mind in the event Dr. Vinson should be removed?

A. No, not especially.

Q. Now, in reference to Mr. Woodman, who was appointed by you as Commissioner of Labor, I believe—?

A. Yes, sir.

Q. The Senate failed to confirm him?

A. Yes, sir.

Q. Were you not advised of the reasons why they failed to confirm him?

A. No, I don't know as I was. The session was executive.

Q. Well, weren't you advised by Senators privately and otherwise, that it was because of some accounts that he had filed with the Comptroller of Public Accounts that they regarded as not quite right?

A. I heard some discussion of his accounts.

Q. His accounts? Did you ever investigate them?

A. No, sir.

Q. You never looked into them?

A. No, sir.

Q. Now, however, after his confirmation was refused, you, of course, knew that he occupied the office still

until the date that you testified over in the House?

A. Yes, I knew he was in the office.

Q. And you knew he was acting Commissioner, did you not?

A. Yes, sir.

Q. Yes. It had not been changed until that date that you were testifying there?

A. No, sir.

Q. Yes. It is also true, is it not, that during all that period you made no investigation into the correctness of his accounts?

A. No, sir. I understood that Swor was to be the Commissioner, and that that matter would become immaterial.

Q. Well, had not the accounts been paid?

A. How is that?

Q. Had not his accounts been filed with the Comptroller and paid?

A. Well, I don't know about that.

Q. Well, that was what the trouble came up about, and that the accounts were presented and paid, when the objection was made that they were too large, and that the items were incorrect?

A. As I say, I heard some discussion about his accounts.

Q. Well, you did not think, then, that if that be true and was still a pending question, that he ought to have been compelled to return that money if the charges of the Senators were correct?

A. Well, that might be the effect of that, yes.

Q. Yes. Now, did you have a written contract—something was said about Mr. Stevens' attorney's fee in the Dayton Lumber Company case—haven't you a written contract with him about the fee?

A. No. I think the matter of his fee was covered in the contract of Mansfield, as I remember—wasn't it?

Q. Stevens did not sign that contract, did he?

A. I think somebody—there was an addenda added, in which he agrees to—

Q. Didn't you have a separate written contract with him as to fee?

A. No, I think not, I don't recall it if I did.

Q. Have you any statement in your books or accounts showing how you settled with Mr. Stevens, and the dates of your several payments to him?

A. No, sir.

Q. You have nothing of that kind?

A. No, sir. I just paid him the money by check and otherwise.

Q. Governor, didn't you have this kind of a written contract, that provided for a fee of \$3,900, and for Mr. Stevens to get a bonus of \$500 in the event the case was won?

A. No, I don't recall that.

Q. You do not recall such a contract?

A. No, sir.

Q. Now, you stated that your financial affairs—I believe you testified in the House that your financial affairs began to get bad about the time of the investigation here—the first investigation had in the House, the cause of it, that you were threatened with bankruptcy? Is that what you stated?

A. No, sir, I don't recall that that was what I stated.

Q. Well, just how did you state it?

A. Well, I stated that as a result of the investigation and the continued discussion of my affairs, that it was hard for me to obtain credit, I found difficulty in arranging my affairs as a result of that continued discussion.

Q. When did that difficulty arise?

A. Well, just as soon as—it began to be apparent as soon as the matter was introduced here in the Senate.

Q. Here in the Senate, during the regular session?

A. Yes, sir.

Q. Well, now that was in March, wasn't it?

A. I don't recall—I think probably February.

Q. February?

A. Might have been the latter part of February.

Q. The latter part of February?

A. I don't recall, though.

Q. And it continued in the House in March?

A. Yes, sir.

Q. Now at that time you stated that some friends of yours got together and made you a loan of \$156,500?

A. Yes, sir.

Q. Just what date was that loan made?

A. Well, that brings up the question that we are going to get to sooner or later, and I want to make this statement—

Senator Bee: Mr. President, we cannot hear the witness.

The Chair: Louder.

A. I say, that that brings up the question we are going to get to, and about which everybody has been interested, and so I just want to say here, that, without in any respect whatever intending any discourtesy to this Senate, or to anybody else, I must decline to give any information about that loan, because I—in the first place, to get the loan, I had to give my promise that I would not disclose the names of the persons who let me have the loan; and in addition to that, if I were to disclose it, it would open up an examination of my private books and papers and records, which would entail upon me strong—a great financial loss, and, in fact, forfeit my property; and for that reason I must respectfully decline to tell you anything about the details of that loan.

Q. You made this voluntary statement in the House, that you did procure that loan, didn't you, Governor, without being asked about it?

A. I made the statement over there that I had obtained from friends.

Q. Amounting to \$156,500?

A. Yes, sir.

Q. You also stated in the same connection, did you not, that \$11,250 or thereabouts, was obtained sometime in February of this year?

A. I think I made that statement.

Q. And you stated also that that note of yours of \$37,500 was paid with the funds thus obtained, didn't you—the Temple State Bank note?

A. Yes, sir, as well as the other notes.

Q. Both of them were paid with funds thus obtained?

A. Yes, sir.

Q. Well, weren't the three—the third note paid in the same way?

A. Yes, sir.

Q. The one that you signed was paid with the money thus acquired, the one that the Bell-Bosque Stock Farm signed, was it? No, the one that Mr. Davis signed, and the one that your brother signed were all paid with the funds thus acquired?

A. Yes, sir.

Q. Your note was paid in February, wasn't it?

A. Yes, sir.

Q. How long had you had the money at that time?

A. Well, for the same reason, I

must decline to tell you that—that I have stated.

Q. Well, without going into that closely, you testified in the House that you had \$20,000, or about that, in your office for some time, perhaps thirty or sixty days, before it was deposited in the bank, did you not?

A. Yes, sir.

Q. Did you keep that in your own safe?

A. I kept it in my desk.

Q. In your desk?

A. Yes, sir.

Q. A wooden desk?

A. Yes, sir.

Q. You did not advise even your Private Secretary of the fact that you had it?

A. No, sir.

Q. How much money did you keep in that wooden desk?

A. I don't recall just exactly—somewhere between fifteen and twenty thousand dollars.

Q. Now, did you get all that money at once, or did you get it from various and different people at different times?

A. Well, for the reasons that I have stated, I must respectfully decline to tell you that.

Q. Governor, does it occur to you that a man occupying the position that you do as Governor of the State of Texas, and receiving that amount of money in that unusual way, that it naturally excites comment and that the people think they have a right to know from whom you got it?

A. It does not only not occur to me, as you have stated, but that was a clean, honest, clear daylight, daylight transaction between honest men, and that—

Q. Well—

A. —that does not refer to any official duty that I had, it was not connected in any way with anybody that had legislation before this Legislature, or with any official act, and it was not gotten from any public official, and that is my private business; and if the price of the Governor's office must be that I must break my word to the friends who helped me when the politicians of the State had almost ruined—tried to ruin my bank, had gone into my wife's private business, and into my private business, where the directors of my bank had been entirely satisfied with it and are satisfied today, and, whilst I mean no disrespect to anybody, but in a great

crisis like this that a man ought to be frank, and if it means that the price of the Governor's office is that I must unload to everybody the private business and the private accommodations extended to me by friends at a time when I needed it and I was being pursued for political purposes—it not only does not occur to me that the people have any right to know it, but that the time has been reached where the limit ought to be stopped somewhere, where the private rights of the individual can be protected as the framers of the Bill of Rights intended that they should be protected. I say that in all due respect to this Senate and to the members of the counsel representing the Board of Managers. It has got to a point of where I must throw away a fortune of a lifetime that I worked like a dog to make, and put me and my family back to where we tried to escape all these years. Therefore, if that is the price, I must suffer and pay it; I will not break my word, and I will not unload to the public that which would cause an unlawful search and seizure of my private books and papers and records, which would have the effect to destroy my estate.

Q. Well, now, Governor, you had heretofore and theretofore exhibited to various committees—to the Committee of the House of Representatives and also the Committee of the whole House over there, and in various statements, a complete statement of all of your assets and liabilities and the dates of the maturities, hadn't you?

A. Yes, sir.

Q. And the private loans that you had made or had obtained from various individuals?

A. Yes, sir.

Q. And also from banks in various ways?

A. I was compelled to do that, and I thought the limit would be reached somewhere, but it looks like they are never satisfied.

Q. But now, the next question—I am trying to get your point of view.

A. All right.

Q. Why in this particular transaction, the borrowing of this \$156,500, under these unusual circumstances, why is that to be differentiated from the loans that you have made heretofore?

A. Well, if I were to tell you that I just as well tell it all, and for that.

reason I must decline to tell you the details of the very proposition; if I would tell you that, why I would just as well tell it all to you.

Q. Then, as I understand you—in order to get this record straight—you decline to give to the Senate the precise date when you obtained this money, the names of the persons from whom you obtained it, or whether more than one, and whether or not you gave any security for it?

A. Yes, sir, I so decline.

Q. You decline all of those answers?

A. I decline all of those answers for the reasons stated.

Senator Page: Mr. President, if it is not out of order and would not interrupt General Crane, I have sent up several questions right in this connection that I would like to have asked.

General Crane: That's all right; ask the question.

The Chair: All right; the Chair will read the questions sent up by the Senators.

(Reading): First: "Referring to the loan to you of \$156,000, will you state whether or not any law of Texas was violated by you or by those loaning you in this transaction?"

A. Not in the slightest. It was a plain contract between friends.

The Chair (reading): Second: "Was any of this money obtained from any State official or the head of any department of this State?"

Mr. Hanger: He has answered that.

Senator Page: I believe he has.

A. It was not.

Mr. Hanger: Yes, he has answered that.

The Chair (reading): Third: "Have you requested those loaning you to allow you—to release you—to divulge the details of this loan?"

A. Since the meeting in the House I have tried to arrange the matter so that I could tell all of this transaction. I am conscious of no wrong, gentlemen; I have done that just like any other business man under the circumstances, but unfortunately I have not been able to arrange it, and my word is still out and I have not been released from it.

Q. Did your friends exact from you the promise that you would not divulge the date when you received the money?

A. They exacted from me the promise that I would not tell anything about it.

Q. Well, now you did voluntarily make a statement about it, did you not, in the House of Representatives and in the Committee of the Whole?

A. I made the statement that I had gotten the money, yes.

Q. Yes?

A. And I make that now.

Q. And you gave a good deal of information about it; you told where you deposited something over a hundred thousand of it, didn't you?

A. Yes, that is a matter of bank records; there is no attempt to conceal that.

Q. Now, you did not disclose where you deposited the rest of it; that is a matter of bank record, too, I presume, isn't it?

A. Yes, sir.

Q. Well, where was that deposited?

A. Well, as I told you, some in the banks at Clifton—

Q. Well, we have \$7500 in Clifton, we have \$35,000 in the Temple State Bank, we have \$76,000 here in Austin, and that is short the \$156,000. In what banks was the rest deposited?

A. In the Temple State Bank.

Q. An additional amount beyond the \$35,000?

A. Yes, sir—no, no; my note was paid, you understand, out of that.

Q. When—that was in February?

A. Yes, sir.

Q. Yes; well, now, those deposits were made in currency?

A. Yes, sir.

Q. Well, now, Governor, can you state to this Court how it could possibly endanger any friends of yours to be known—to have it known that they had loaned you \$156,000 or even a half million dollars; if they were your friends, how could it hurt them?

A. That would get back to the same proposition. It is perfectly simple if you knew all the facts, but I can't tell you—I regret that I can't tell you; for the reasons stated, I can't tell you.

Q. Now, in your statement heretofore, when your private affairs were being looked into, you remarked in your speech, did you not, that they ought to be proud of a

Governor who could borrow \$150,000?

A. Well, I don't think yet it ought to be cause for impeachment because I did borrow that much.

Q. Well, if they can be proud of a man who can borrow \$150,000, don't you think that the Governor's friends ought to be proud of the fact that they are willing to lend him \$150,000?

A. Well, these friends were; but for the reasons stated they don't want me to tell it.

Q. I see. Now, Governor, you have stated here, as I have understood you, and also before the Committee of the Whole House, substantially as follows: In the House particularly you made this statement, did you not: "Here I am, solvent, here I am, have gone through an investigation before the investigating committee, wherein item by item as to my worth, before those, and in the presence of those who had raked this country with a fine-tooth comb to break down my statement and show that I wasn't worth as much money as I had said I was worth, and yet, with all that, they never put a witness on the stand," etc. You made that statement, you stated to every man from whom you were borrowing the money, didn't you?

A. I think that is the statement I made, or substantially the statement.

Q. But now, before that investigating committee met, you had actually borrowed a lot of this money and had it in your possession, and had deposited \$11,250 in Major Littlefield's bank, hadn't you?

A. Yes, sir.

Q. And you had paid this note of \$37,500 before?

A. Yes, sir.

Q. Then your financial condition could not have been caused by the investigating committee, because you received the money some thirty days or more before the investigation was held, wasn't it?

A. Well, yes, the investigating committee had been held—I had received the money about thirty days before the investigating committee—

Q. You paid the note long before the investigating committee came on?

A. Yes, sir.

Q. Now, you did not disclose

that fact before to the other investigating committee either, did you?

A. No, sir; I told them at that time—you mean the committee that met this spring?

Q. Yes.

A. Well, at that time I had not paid the notes; they were then in the possession of the Houston Exchange National Bank.

Q. Your personal note was not?

A. Yes, my personal note had been paid.

Q. Your personal note had been paid?

A. Yes, sir.

Q. And you paid it with this money, didn't you?

A. Yes, sir.

Q. Now this statement: "And whilst the statements exhibited here do not show it, yet I have no desire to conceal the fact, the statement showed that the money was deposited at different times in the American National Bank and in the Temple State Bank, and out of the proceeds of that fund, furnished to me at different times, I paid the three notes, one of \$37,500 to the Temple State Bank, and the other two notes of like amount, \$37,500, held by the Houston National Exchange Bank—I paid them, and I have all the notes here in my possession. Now, as to whether"—That is all on that subject. That was a fact wasn't it?

A. That statement was made—that is, substantially as read.

Q. Yes. Now, at the time that you got this \$150,000 you had practically all of your estate mortgaged and pledged, didn't you?

A. Yes, sir.

Q. To secure a large amount of indebtedness?

A. Yes, sir.

Q. Amounting to several hundred thousand dollars?

A. No, the indebtedness did not amount to seven hundred thousand dollars.

Q. Well, didn't the indebtedness amount to three hundred and fifty thousand dollars?

A. Yes, something like that.

Q. Well, I said several hundred—I did not mean seven hundred.

A. Oh, well, I understood you to say seven hundred thousand dollars.

Q. No, no, I didn't mean that. You did then have practically your entire estate pledged for three hun-

dred and fifty and more thousand dollars?

A. Yes, sir.

Q. And now as I understand you, you decline to tell this Court whether, for the purpose of the \$156,500, any security was executed by the lenders, or given by you?

A. I would be glad to tell you all about it, but for the reasons stated I must respectfully decline to tell you any of the details of it.

Q. You decline also to state from what banks the currency was brought to Austin and delivered to you?

A. I don't know; and I didn't say it was brought to Austin either.

Q. Well, you admit that you received it in Austin, do you not?

A. I don't want to tell you anything about it for the reasons stated, and meaning no disrespect whatever.

Q. You simply decline to answer any questions in respect to that transaction, other than those you have answered?

A. Yes, sir.

General Crane: That is all.

The Chair: I have a couple of questions here—

Mr. Hanger: Yes, certainly.

The Chair: By Senator Strickland (reading):

"1. Governor, was any of this money obtained directly or indirectly from anyone connected in any way with any brewery or liquor interest?"

A. I borrowed that money from private friends.

Mr. Harris: That is not an answer to the question, we submit, your Honor.

A. I was going—I will answer the question by saying you could go on and by process of elimination of this man or that man or this firm or that firm or this interest or that interest, and by that way get the same information which I have respectfully declined to furnish, and for that reason in answer to that question I must respectfully refer to the answer which I have made declining to answer anything about it.

The Chair: This other question, Governor (reading):

"Did Jesse Jones of Houston have anything to do directly or indirectly with your obtaining this \$156,000?"

A. For the same reasons, I must decline to answer that question.

The Chair (reading): "3rd. Was this money obtained directly or indirectly from any oil interest?"

A. For the same reason, I must decline to answer that question.

The Chair: Anything further now.

General Crane: Nothing further.

Senator Page: Mr. President, have you finished the written questions?

The Chair: Yes, sir.

Senator Page: I think it would be proper to suggest at this time as a member of the Court that this matter, it seems to me, has now reached an issue. I do not care in any way to interfere with counsel, not knowing what their method is of conducting the case, but it seems to me it would be proper at this time for Judiciary Committee No. 1 of this Senate to take under advisement the proposition as to whether or not the Governor upon the stand may be compelled by us to answer these questions, and, without interrupting the Court, I now move that this matter be referred to the committee of which Senator Bailey is Chairman, with the request that they examine into this matter and report back to the Court their conclusions as to it. I do this because it occurs to my mind, not having discussed it with any other Senator, except that I think the matter has now reached an issue. It does seem to me that if we have the power to compel an answer to these questions, that we ought to proceed to do so; if we have not the power we ought to ascertain it. It is a matter of very grave importance, and I would like for it to be submitted to Judiciary Committee No. 1, which is the Committee of this Senate which deals with these matters. I do not care to interfere at all with the examination, but at this time if it may be done without impropriety, I move that it be referred to Committee No. 1 and that they report back.

Senator Bailey: Mr. President.

Senator Bee: Mr. President.

The Chair: The Senator from DeWitt.

Senator Bailey: Mr. President, since I am Chairman of that Committee, I desire to state that I have not discussed it with any other member and do not know how they feel about it. I am not trying to shirk any duty at all in any matter, and I feel, speaking without having advised with any other member of the Committee, that they feel probably as I do, that they are equal to the emerg-

ency and will take the responsibility if in the judgment of the Senate it ought to be done. But it occurs to me that the proper committee to send this to would be the Committee on Rules and unless some member of the Senate or the Committee on Civil Jurisprudence, the members of the Committee being myself, Senator Lattimore, Senator Bee, Senator Henderson, Senator King—now superseded by Senator Collins, Senator Harley, Senators Hopkins, Suiter, Dean, Hall, and Alderdice differ from me in the matter—my views in the matter, I am going to move as a substitute for the motion by the Senator from Bastrop that this question be referred to the Committee on Rules instead of the Committee on Civil Jurisprudence.

Senator Page: Does the Senator from DeWitt yield?

The Chair: Does the Senator from DeWitt yield?

Senator Bailey: Yes, sir.

Senator Page: Have you the membership of the Committee on Rules now?

Senator Bailey: Yes, sir.

Senator Page: Would you mind reading the names of the members of the Committee?

Senator Bailey: I want to say in support of my motion, for myself, as Chairman of that Committee, that the work at the last session of that Committee was exceedingly heavy. We passed on something more than 140 civil bills—bills covering civil matters—and I did not, and I feel that the other members of the Committee did not, have time on account of our committee work to study as carefully the rules of the Senate as did the members of the Committee on Rules who were charged with that duty. I will state to the Senator from Bastrop that page 175 of our Manual shows that the Chairman of the Committee on Rules is Senator King. I do not remember whether the Chair appointed the Senator from Jefferson, Senator Collins, in his place or not, but the Chair will know.

The Chair: Senator Decherd has that place.

Senator Collins: I have not been notified what committees I am on.

The Chair: Not on this committee, because the place had been filled before the special election in your district. Senator Decherd has that place.

Senator Bailey: Then I suppose

that the Senator from Bastrop would be chairman of that committee. The other members of that committee are Senators Hudspeth, Lattimore and Hopkins. I move, Mr. President, as a substitute for the motion by the Senator from Bastrop, that the matter be referred to the Committee on Rules.

Senator Hudspeth: I move that it be laid on the table.

Senator Page: Does the Senator from DeWitt yield?

Senator Bailey: Yes, sir.

Senator Page: Senator, I do not think, if you will pardon me, that this is a matter of construction of the rules of the Senate. I do not think that the rules of the Senate will as a matter of fact cut any figure in this matter. I think this is a question that will be settled by reference to the Constitution of this State, the Constitution of the United States and the decisions of the courts construing those constitutions. Therefore I think, Senator, while I do not seek to shirk any duty—I was not aware at the time that I would be acting chairman of the Committee on Rules.

Senator Bailey: I understand.

Senator Page: I think the Committee on Rules is composed of the best lawyers in the Senate, and while some of us are very fine lawyers, I will say that I think the Committee on Civil Jurisprudence is the best qualified committee; it is the largest committee. The Committee on Rules has only five members. We lost Senator King. I recognize that the Senator from DeWitt has been hard worked, but he must remember that he has not the cares of family that the rest of us have (laughter), and I request him to withdraw his motion and allow it to go to the Committee on Civil Jurisprudence. I would like for him to withdraw it.

Senator Bailey: The Senator from El Paso moved to table it.

Senator Hudspeth: I withdraw the motion. I understand this to be a legal question. Therefore it certainly should go to the committee that passes on legal questions in the Senate. It is not a rule, I will state to the Senator from DeWitt; it does not involve any rule of the Senate. We have no rule covering the question of whether or not a witness shall or shall not answer questions. But, being a legal question,

I think it should go to the highest legal committee in the Senate, which is Judiciary No. 1.

Senator Bailey: Does the Senator from El Paso yield?

Senator Hudspeth: I yield.

Senator Bailey: If this states a constitutional question—and I understand the Respondent does say that under the Bill of Rights he has this privilege and is claiming this privilege of not being made to disclose his private transactions under the Bill of Rights—would not the proper committee to consider that be the Committee on Constitutional Amendments? (Laughter.)

Senator Hudspeth: No, sir.

Senator Collins: Mr. President.

Senator Bee: Does the Senator from DeWitt yield?

Senator Bailey: I yield to the Senator from Bexar, then to the Senator from Jefferson.

Senator Bee: I want to say that I am a member of the Committee on Civil Jurisprudence. I would not seek this responsibility if I thought I had any right to avoid it, but I think the privilege claimed by the Respondent in this matter is of the very highest character of privilege. It goes to the very fundamental question of the Constitution of this State and the rights of individuals thereunder. I think that a question of that kind would very improperly go to a committee constituted solely for the purpose of establishing rules for the guidance of the Senate in its deliberations. It is a question that, as I said a minute ago, involves a construction of the Constitution of this State and it is fundamental and a question of the rights of a witness and the rights of an individual under that Constitution in the protection of his private business. It occurs to me, Mr. President, I will say, that this matter, if it ought to go to a committee at all—so far as the Senator from Bexar is concerned, I have no desire to let it go to a committee at all. I have reached my conclusion upon this question, but if it is the view of the Senate and the Senator from DeWitt feels that it ought to be done, let's send it to the Committee on Civil Jurisprudence, composed of lawyers selected, at least contemplated, because of their knowledge of the law, and not to a committee on rules selected solely to guide the conduct of the Senate for

the deliberation of its business. I hope the Senator from DeWitt will not insist upon that character of disposition, though I myself would prefer not to have the question passed to me, but I know this is not the time and I know the Senator from DeWitt would not shirk any responsibility, because he is not that kind of man.

Senator Bailey: Mr. President, I have not yielded the floor.

The Chair: The Senator from DeWitt has the floor.

Senator Westbrook: Mr. President, a point of order.

The Chair: State the point of order.

Senator Westbrook: The point of order I desire to make, Mr. President, is that no motion has been made by any member of this Court that the Governor be required to answer the question, and if there had been a motion or request from any member of the Court that the Governor be compelled or requested to answer the question, this is a question that, it seems to me, should be referred to the Court as a body to decide, and not to any sub-committee of the Court. I make the point of order, then, that no motion having been made that the witness be compelled to answer the question, that it is not now in order to move that this be referred to a sub-committee for decision, and were that a fact that a motion has been made by a member of the Court, that the proper body to refer it to would be the entire Court, sitting as a Court,

Senator Page: Mr. President.

Senator Bailey: Mr. President.

The Chair: Just a moment.

Senator Bailey: Mr. President, have I still the floor?

The Chair: No, sir, you have not.

Senator Bailey: What took me—the point of order?

The Chair: The point of order took you off the floor.

Senator Bailey: Well, I would like to have the floor for the purpose of discussing the point of order.

The Chair: Well, you may be heard.

Senator Bailey: Then I will yield to the Senator from Bastrop and have no more to say. I was about to suggest to the Senator from Bastrop when the Senator from Hunt interrupted with the point of order that whatever committee it falls upon to decide this question ought to know

exactly what duties they are to discharge, and I was going to suggest to the Senator from Bastrop that he reduce his motion to writing or send it up in the form of a resolution when we resume work in the Senate. Now, as to the committee work, I simply want to say that I am going to leave that to the Committee on Civil Jurisprudence. I am chairman of that committee and supposed to be the mouthpiece of the committee. I have not had time to discuss the matter with the committee. It occurred to me offhand that the proper place, for this matter is the Committee on Rules. I will withdraw my motion now and let the point of order be discussed and let the members of the Committee on Civil Jurisprudence express themselves on the floor of the Senate as to whether or not they want this duty put on them. I am not trying to shirk anything; I am willing to meet any responsibility, as far as I am concerned, that this Senate may see fit in its wisdom and its judgment to impose upon me as chairman of the committee; but I have not had an opportunity to discuss the matter at all with the other members of the committee. When the proper time comes after the point of order is decided and the motion or resolution is offered by the Senator from Bastrop, I invite an expression on the floor, a candid expression on the part of each and every member.

Senator Floyd: Mr. President, I want to state that I don't think this is a proper question to go before any committee.

The Chair: The Chair desires to be heard on the point of order.

Senator Floyd: I am seeking to speak to that.

The Chair: There is nothing now to be referred to a committee. No one has made a motion requiring him to answer. Now, on that question the Chair desires or is willing to be heard.

Senator Floyd: I just want to say I don't think this is a proper question to go to a committee. It is a question for the Court itself to decide, whether the witness should answer the question, and if it should be referred to anybody it ought to be referred to the entire Court for their decision. I believe each member of this Court has as much right and as much privilege in this case as any other, and for that reason I don't

think it ought to be decided by a few members of the Court.

Senator Page: Does the Senator from Red River yield?

Senator Lattimore: I thought I had the floor.

Senator Page: Will the Senator from Tarrant yield?

Senator Lattimore: Yes, sir.

Senator Page: Senator, you understand that every bill is referred to a committee for consideration. The committee makes up its mind and reports it back. The Committee on Civil Jurisprudence is composed of the best lawyers in this Senate, but when that committee, having made its report, reports back to us, we don't have to adopt their report. It is finally, of course, going to be upon a majority vote of this Senate to determine. My object was for them to make a thorough research and report back and give us their ideas, and then we might do as we saw fit.

Senator Floyd: Still, each member of the Court is a member of the Senate.

Senator Bailey: Will the Senator yield?

Senator Floyd: Yes, sir.

Senator Bailey: We would simply make recommendations in the nature of a report and then in open court every member would have a right to vote by aye and no and his vote recorded in the Journal after discussion.

Senator Lattimore: I desire to express myself very briefly.

The Chair: Senator Lattimore has the floor. He yielded to the Senator from Red River.

Senator Floyd: I am through.

Senator Lattimore: Now, Mr. President, I doubt whether a point of order can be raised in the Court, but the question could be raised as to the best method of procedure. Of course, the Chair has not been called upon yet to rule upon the question as to whether the witness should be required to answer the question or not. However, since the matter has been discussed by some of the Senators partially, I may be permitted to express myself upon the matter before the Chair or before the house. I take it, Mr. President, that the refusal of the witness to answer the question is not a sudden or immediate conclusion. This matter was before the House when they were sit-

ting in their capacity as an investigating body. The matter was incorporated—

The Chair (interrupting): The Chair would prefer that the question raised by the point of order be discussed.

Senator Lattimore: Well, I will confine myself to that, but really do not care to discuss it, Mr. President, because I don't think that there is anything before the house at this time at all—or before the Court at this time at all. There has been no motion made, but just a point of order upon something that is not really presented.

Senator Page: Will the Senator from Tarrant yield?

Senator Lattimore: Yes, sir.

Senator Page: The Senate being in doubt as to its power, I move that the matter be referred to the Committee on Civil Jurisprudence.

Senator Lattimore: Is that matter before the Court?

Senator Page: Yes, sir—and that they be instructed to report back to us.

The Chair: The Chair wants to hear the point of order discussed.

Senator Hopkins: Mr. President.

The Chair: The Senator from Denton.

Senator Lattimore: I don't care to discuss the point of order.

The Chair: I understood that.

Senator Hopkins: I do not understand the exact point of order made by the Senator from Hunt.

The Chair: The point of order that no motion has been made to compel the witness to answer, and therefore the question is not before the Court at this time.

Senator Hopkins: Well, I wish to raise this point of order, Mr. President—

The Chair: Well, let's have this point of order discussed and disposed of first.

Senator Hopkins: I would like for the Chair to rule on the point of order by the Senator from Hunt.

The Chair: Does any other member desire to be heard on the point of order?

Senator Gibson: Mr. President, I desire to make a few remarks on the point of order. It occurs to me that there is nothing before the Court at this time, nor was there anything before the Court when the Senator from

Bastrop made his motion. In other words, there is no basis for the motion of the Senator from Bastrop; that question has not arisen, as to whether the Governor should be compelled to answer the question or not. Counsel has not appealed for a ruling of the Court. Counsel has not asked the Chair to rule on that question, and it occurs to me that it is plain that there is no basis for the motion made by the Senator from Bastrop. I am not contending that his motion is not all right at the proper time, but it does occur to me that there is no basis and was no basis for that motion.

General Crane: Mr. President.—

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: I want to discuss briefly the point of order, and I fear I am trespassing upon the time of the Court. I regard the matter, however, as a very weighty and a very serious one. I think my good friend the Senator from Fannin is mistaken. A witness has been placed upon the stand in his own behalf by his counsel in this High Court of Impeachment. On cross examination counsel for the House Managers has asked that witness a number of questions, a series of questions, which this witness has declined to answer. Counsel for the House Managers have not called upon the Chair to rule whether or not this witness should be compelled to answer these questions; and so I say that any member of the Court, any Senator of Texas, independent of the House Managers and independent of what counsel for the House Managers may wish, that we at this time want to know what our rights and powers are here. We want to know at this time whether or not a Senator of Texas can rise upon the floor and say, "I demand that the Governor of Texas answer this question."

Senator Gibson: Will the Senator yield?

Senator Page: Yes, sir.

Senator Gibson: Has there been a demand of that sort made?

Senator Page: There has not, Senator, for this reason: We want to know—we want to make a careful investigation of the Constitution of this State and the Constitution of the United States and find out whether

or not if a Senator of Texas asks that question he shall be—have the right to demand that the witness answer it. The only thing is that we want to know what our rights are—we want to investigate the matter at this time.

Senator Woodward: Will the Senator yield?

Senator Page: Just a moment. We want to know so, if a Senator of Texas asks a question on the floor, that question shall be answered or the Senate of Texas must then demand of the Governor of Texas to know the reason why he does not answer.

Senator Woodward: Don't you think the Presiding Officer of the Court is competent to pass upon the question whether he shall answer or not?

Senator Page: Senator, I desire to say that I regard the Presiding Officer as in every way eminently fitted for the high position he holds. I know of no other lawyer in Texas that I would prefer for this question to be submitted to. But I do think that the Committee on Civil Jurisprudence of the Senate, of which the Presiding Officer is a member, with their united abilities, are more competent to pass upon it than any one man, no matter who he may be. This is my answer to that, Senator. If I rise to my feet on this floor and ask that the witness be compelled to answer I want to know if I have the right to ask the question, and when I do ask it, and this witness refuses, then I want to know whether or not I am within my rights when I appeal to the Chair to say to him, "You must answer the question or take the consequences." I simply want to know where I stand; I have never investigated the matter, we have been busy with a multiplicity of matters, and I understand that except for the Sergeant-at-Arms, there is no Senator here who has had any experience in this practice or in these matters, and I think we ought to have a united expression from the Committee on Civil Jurisprudence as to the rights of the Senate in the matter, and after they have investigated the matter they can report back to the Senate and every member of the Senate of Texas not a member of the committee may differ with them and the matter may be submitted by the Chair to the Senate. Answering the Senator from Red River, it could be put

up to the Chair, and if he could do so without shirking the duty upon him I think he would hesitate long before he would not say that a question of this kind, I believe, had best be determined by the entire Senate. I say that with due respect to the Chair. I know the Chair is courageous, but I say in a matter of this kind it is possible, and he would be within his rights if he said, "I submit this matter to the entire Senate for its disposition." If he didn't say that it would be simply because the Chair might say he would be shirking responsibility, in the event the Chair ruled one way or the other on a question of this importance it is more than likely under the rules adopted here the Chair would be requested, his decision appealed from and he would be requested,—under our rules we have the right, and he would be requested to submit the matter to the Senate,—not to reflect upon the Chair at all. I suggest that the motion to refer it to that committee is unobjectionable and it ought to be done, because we are approaching a crisis. I think the Senator from Fannin would agree with me that he would like to have—he is an eminent constitutional lawyer, he has admitted that himself, but he might be enlightened by the committee presided over by the eminent bachelor from DeWitt.

Senator Hudspeth: Supplementing what has been said by the Senator from Bastrop, this being a legal question—

The Chair (interrupting): The question the Chair now wants to hear discussed is the point of order.

Senator Hudspeth: I am coming to that.

The Chair: All right.

Senator Hudspeth: I will preface my remarks by saying I think it is in the mind of the Senator from Bastrop that any Senator has the right to raise the question as to whether or not the Governor can be forced to answer the question. The entire Senate not having had time to properly investigate it, it occurs to me that the proper committee would be Judiciary No. 1. While I challenge the statement that the best lawyers are on that committee—I am not on that committee; I state that that is a libel—I am willing to rest the question with Judiciary No. 1 and abide by their report. Then, when the report comes back from the committee, it is an open question before

the Senate as to whether or not the conclusion of that committee or a majority thereof shall be adopted as the conclusion of the Senate on the question. I, therefore, think there is nothing in the contention made by my friend the constitutional lawyer from Fannin, as he has been denominated by the Senator from Bastrop. Any Senator has a right to raise the question whether or not the witness shall answer the question. It is a mooted question. At one time it was decided—

Senator Gibson: Will the astute Senator and learned lawyer from El Paso yield?

Senator Hudspeth: I am a plain backwoods lawyer.

Senator Gibson: Will you yield?

Senator Hudspeth: I yield to the constitutional lawyer from Fannin.

Senator Gibson: As the Constitution of Texas is written in plain English, I claim to be able to understand it.

Senator Hudspeth: You have admitted that, Senator—nobody questions that, and we will not take any testimony on that.

Senator Gibson: I want to say that I agree with the Senator from El Paso.

Senator Hudspeth: I am glad I converted him.

Senator Gibson: He says the question can be raised by any Senator. It can be raised, but the question whether the Governor shall be required to answer it or not has not been raised. That is where we differ.

Senator Hudspeth: I hold that the Senator from Bastrop, I will state, when he made the motion to refer it to the Committee on Judiciary at that time raised the question as to whether or not the witness should be forced to answer the question. Else what would be the use of making a motion, if there isn't a doubt in the mind of the Senator from Bastrop as to the question, why, then refer it to the Committee on Judiciary.

The Chair: Will the Senator from El Paso yield to the Chair?

Senator Hudspeth: Yes, sir.

The Chair: The question is whether or not—that is an academic question—whether we have the power to do it or not, no motion having been made that the witness be compelled to answer.

General Crane: Mr. President, may I make one remark, with the permission of the Court?

The Chair: Will the Senator from El Paso yield?

Senator Hudspeth: Yes, sir.

General Crane: That is, that we do request the Chair to compel an answer.

The Chair: That removes the difficulty.

Senator Hudspeth: I didn't hear it.

General Crane: I said we request the Chair to compel an answer.

Senator Hudspeth: Then I have nothing further to say.

Senator Lattimore: Mr. President.

The Chair: The point of order is overruled. The Senator from Tarrant.

Senator Lattimore: As I was going to say, I think it is a fair presumption to conclude that the answer of the witness—

Senator Bee: Let's have order, Mr. President.

The Chair: Let's have order in Court.

Senator Lattimore: I take it, Mr. President, that the answer of the witness refusing to answer the question is not a hasty one. I think I am justified in presuming that it is not only one which is made after consultation with the attorneys who represent him—

Senator Harley: A little louder.

Senator Lattimore: I say, I think I am justified in concluding that the refusal of the witness to answer the question is a conclusion that he has come to deliberately, that it is not a hasty or sudden determination formed while he is on the stand. I think I am also justified in concluding that it is a matter that he has discussed with his counsel, because when the matter was before the House he declined to answer the question.

Inasmuch as his declination to answer, his refusal to tell where the money came from, is made a specific article of impeachment, I take it, Mr. President, that his attitude towards that matter—and the further fact that when that article was reached it was not referred to and no question asked him about that by his counsel—that all those things would justify the conclusion that the refusal of the witness to answer this matter is a position which he has taken after consultation and as a

matter of deliberate purpose. Now, Mr. President, this effort on the part of the Senator from Bastrop to refer the matter to a committee, or the idea of referring it to a committee, I take it could only result in an opinion of that committee as to the method of procedure in the event the witness should decline to answer. Now, Mr. President, on that proposition I want to say this, that when the Senate is considering the gravest question that could come before it, and that is the question of impeachment *vel non* of the Governor, that when it is apparent that the Governor has made up his mind, as I said, advisedly, that he will not answer this question, that then it does not seem to me, Mr. President, that we need take up time to discuss or get the opinions of the learned lawyers in the Senate as to whether we ought to fine him or imprison him or what we ought to do in the event he fails to answer. It is not a question of the Senate's taking time, Mr. President, and I don't think that when we are considering the greater question, that when we are considering the vital question, when we are considering the main question—that is the question of whether or not his conduct in this respect is worthy of impeachment—that we ought to take the time to investigate matters as to what we will do with him as a question of procedure in the event he refuses to answer the question.

Senator Bailey: Will the Senator yield?

Senator Lattimore: Yes, sir.

Senator Bailey: Now, Senator, you are getting into the same hole that I came out of. (Laughter).

Senator Lattimore: I hope I come out of it looking as well as you do.

Senator Bailey: If you are correct and the Senate decides that the witness must answer the question, then it is a question of parliamentary practice, and ought not the Committee on Rules, who are supposed to be better parliamentarians than we are, would they not be the proper committee to define the method of procedure that the Senate ought to pursue?

Senator Lattimore: I do not concede either the premise or the conclusion of the Senator. I do not concede that they are any better parlia-

mentarians. I do not concede that in passing on the question we are acting as a Senate, nor that we need a rule. Here is a question where the principal witness from the other side, the defendant or the proponent, where he says, "I will not answer this question." Now, suppose the matter were referred to the Committee on Civil Jurisprudence and they should go out and investigate all of the precedents and all of the laws and should come back and say, "We have concluded that the witness shall answer the question"—would that have any effect on the witness? The witness has said on the stand, "I will surrender this office. I recognize the gravity of this situation. I have looked at this situation from every standpoint, and I will surrender the office before I will answer the question." Would the fact of the legal opinion of the Committee on Jurisprudence that as a matter of precedent or matter of law he ought to answer the question have any weight with him? I take it not. As I said a moment ago, it occurs to me that the witness has come to the conclusion deliberately, so that then the only accomplishment that could result from the deliberations of the Committee on Civil Jurisprudence or the Committee on Rules or any other committee would be to bring in some means of punishing him for contempt, if you please, of the Senate, or for refusing to answer the question. Well, I take it, Mr. President, that when he says, "I will suffer the greatest punishment rather than answer the question," that for us to be fooling around here with little questions of procedure results from the fact that we have not thought the thing through, because it seems to me we ought not to take time. I say this with the utmost deference for the Senator from Bastrop, for whose judgment I have the highest respect, and my opinion of the judgment of the Senator from DeWitt is also very high, both publicly and privately and every other way. But I say in all seriousness that when we come to look at the question it resolves itself back to this: Ought we to take time to discuss ways and means of punishing the witness or devising some way to compel him to answer when he says, "Notwithstanding the gravest punishment you may

inflict upon me I decline to answer the question?" The Senator from Bastrop says we ought to satisfy ourselves about our constitutional rights and our constitutional powers. Now, Mr. President, the Senator from Bastrop says—

Senator Hudspeth: Will the Senator yield?

Senator Lattimore: Yes, sir.

Senator Hudspeth: Do you conceive that there is no machinery we could put in motion here to compel him to answer the question?

Senator Lattimore: No more than he has held up.

Senator Hudspeth: Can't any be put in?

Senator Lattimore: We might punish him by putting him in jail or by fining him, but in my opinion, those are merely a means to an end, and the witness says that "When you get to the end, when you have exhausted yourselves, when I am confronted with the option of being impeached or giving up this office or answering this question, I will not answer it," so that it does not seem to me, Mr. President, that we get anywhere—not only do we not get anywhere, but we put ourselves in this additional attitude, Mr. President, that is, of losing sight of the main issues that are before us in possible wranglings and possible misunderstandings and possible efforts to get together on methods of procedure. I have seen cases tried in court, and so has every other lawyer here—I have one in mind that was tried in the city of Dallas in which a young man was killed, and in the trial of that case ingenious lawyers for the other side—the case was so manipulated that the attention of the jury was drawn off to the question of the veracity of a witness, and it caused the testimony of hundreds of witnesses on one side and the other bearing on the question of veracity and the main issue was lost sight of. There is nothing of that kind in the minds of any of these gentlemen—I am forecasting that because of what might come. Suppose we differ among ourselves and there should be a long drawn out discussion as to how far the Senate might go in punishing or compelling the witness to answer the question; it is easy to see that we might be led on from debate to debate and from discussion to discussion. Suppose we should report in favor of imprisoning him as

suggested by the Senator from El Paso or fining him as some other Senator might suggest; suppose we put the Respondent in jail for his refusal to answer the question. Why, Mr. President, it is very easy to see that, following upon a course of conduct of that kind, various and sundry discussions might arise as to the propriety and the correctness of this method or the other method until we lost sight of the main question before this High Court. So, Mr. President, in view of the fact that the witness has said he will not answer the question, it does not seem to me the Senate ought to refer it to the Committee on Civil Jurisprudence, however much respect I might have for their conclusion and the result of their investigation. In its last analysis it seems to me it is a question for the Senate to decide.

Senator Page: I would like for you to indulge me for about five minutes, and I will state my views about the matter so I may be thoroughly understood.

Senator Bailey: Then, after that, I shall move to adjourn.

Senator Page: Mr. President, I suggest that we have order.

The Chair: Let those in the gallery keep order.

Senator Bee: They should keep their seats.

Senator Bailey: I am in favor of adjourning until 2 o'clock. That would give the Senator from Bastrop time to formulate his motion.

Senator Gibson: Mr. President, I call on the Sergeant-at-Arms in the gallery to keep the people up there from leaving.

Senator Hopkins: Mr. President, a point of order.

Senator Page: Senator, I would not like to be interrupted by a point of order at this time. There can be no possible point of order, and I would like to be heard briefly. I will be grateful to the Senator from Denton if you will let me be heard.

Senator Hopkins: All right.

Senator Page: Mr. President and Senators, I regard the matter now before us as the crucial point in this case. It will go down into history in Texas as one of the great trials in Texas, not one, indeed, of which we might be proud, but one in which we might regret to know that a Chief Executive of the State has had preferred against him by the House of Representatives of Texas articles of

impeachment and that the Senate of Texas has been called upon to try him on those charges. Mr. President, the argument of the Senator from Tarrant shows the grave necessity for the motion which I made in the Senate. What position are we in here? We occupy this attitude: The Governor of this State while upon the witness stand in his own behalf, after having been interrogated by his counsel, is asked by counsel for the House Managers to state where he received certain moneys with which he paid his debts. The witness has replied upon the stand that he declined to answer the question, resting his case upon the principles laid down in the Bill of Rights of the State of Texas. What, then, is our position? Counsel for the House Managers have asked that witness to answer the question and have requested from the Chair a ruling as to whether or not he shall be compelled to answer it. Now, Mr. President, answering the Senator from Tarrant, what position is the Senate of Texas in if the Chair rules he shall answer it and the Senate votes he shall answer it? The witness says, "I will not answer it." Then in what way are we to deal with him?

Senator Hopkins: Mr. President. The Chair: Does the Senator from Bastrop yield?

Senator Page: I don't want to be interrupted.

Senator Hopkins: I make a point of order.

Senator Page: All right.

Senator Hopkins: I make the point of order that under the rules adopted in open session at the former session and published in the Journal of the Second Called Session of the Legislature, on page 72, according to Rule 14 it is the duty of the Chair to pass upon all questions as to the evidence and all questions incident thereto, and in case any Senator is dissatisfied with the ruling of the Chair upon that question then it may be submitted to a vote of the Senate, which does not permit referring the matter to any committee, and upon that point of order, I call for a reading of Rule 14 of this Court.

The Chair: The Secretary will read Rule 14.

The Secretary: (Reading) "Rule 14, page 72 of the Journal: The Presiding Officer on the trial may rule on all questions of evidence and in-

cidental questions, observing the established rules of evidence in this State as near as practicable, which ruling shall stand as the judgment of the Court unless some member thereof shall ask that such question be decided by a vote of the Court, in which case it shall be submitted to the Court for decision, or he may at his option in the first instance submit any such question to a vote of the Court. Upon all such questions the vote shall be without a division, unless the yeas and nays be demanded by three members of the Court, when the same shall be taken."

The Chair: Does the Senator desire to be heard further on the point of order?

Senator Hopkins: Nothing further, Mr. President, than to state that a question as to whether a witness shall be compelled to answer a question is a question of evidence or a question incident to the introduction of evidence, and this rule, although it states the Court may pass upon that question, is mandatory, for it prescribes a method by which that question shall be settled, and it is in the alternative. It prescribes another method by which it may be settled, to wit: The Court may pass upon the question, or in case any member of the Senate is not satisfied to have the Chairman of this Court pass upon the question, then it shall be referred to a vote of the Senate and shall be—the Senate sitting as a Court—and the decision of the majority of the Court shall be binding. That rule does not permit that any question of evidence shall be referred to any committee, but the only way it can be decided is for the Chairman to pass upon the question and in case any Senator is not satisfied with the ruling, then it shall be upon his request referred and submitted to a vote of the entire Senate sitting as the High Court of Impeachment.

The Chair: Does any other Senator desire to be heard on the point of order.

Senator Dayton: Mr. President.

The Chair: The Senator from Cook.

Senator Dayton: I think the remarks of the Senator from Denton as to the rules of this Senate are plain and precise. Mr. President, we never will get through debating these questions if we do not adhere to the rules.

The Chair: It is a question now of what the rules mean.

Senator Dayton: As the Senator from Denton says, the question whether the witness shall answer the question or not is a matter that is incident to evidence; it is a matter that the courts always pass on. Who else passes on it in the trial of cases? Nobody but the court. If any member of the Court is not satisfied, it is plain what he shall do. I think his position is correct. I think it is the only way to get at the proposition, is to go according to the well established rule and go according to the rules that we have adopted here under which to conduct this trial, and it seems to me that the point of order made by the Senator from Denton is timely and well taken. And just one thing more, Mr. President—there is a higher rule than all this: it is the rule of right or wrong. What is the right way to do it and what is the wrong way? It seems to me the rules themselves in the ordinary practice of any district court—

Senator Bailey: (Interrupting) Mr. President, I move that we recess until 2 o'clock.

Senator Lattimore: Senator, make it 2:30 o'clock.

Senator Clark: I move that we recess until 2:30.

The Chair: The Senator from Fayette moves as a substitute that the Court recess until 2:30. Those in favor of the motion will signify it by saying "aye," those opposed "no." The noes have it. Now the question is on the motion to recess until 2 o'clock. Those in favor of the motion to recess until 2 o'clock will signify it by saying "aye," those opposed "no." The motion is carried, and we will recess until 2 o'clock.

Thereupon, at 12 o'clock m. the Court recessed until 2 o'clock p. m.

In the Senate.

President Pro Tem. Dean in the Chair at 12:15 o'clock p. m.

Senate Bill No. 13—House Amendments Concurred In.

Senator Buchanan of Bell, called up for consideration of House amendments to

S. B. No. 13, A bill to be entitled

"An Act to establish and maintain at the Ferguson State Farm, in Madison County, or the Shaw State Farm in Bowie County, or State Farm in Brazoria County, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as the State Training School for Negro Boys, etc., and declaring an emergency."

The following House amendments were laid before the Senate:

(1) Amend Senate Bill No. 13, page 8, Section 4, by adding to the end thereof the following: "Provided that the unexpended balance of the public free school fund apportioned to said Colored Juveniles at Gatesville in Coryell County be transferred for their credit to Madison County."

(2) Amend the bill by striking out the words "or Shaw State Farm or Brazoria County State Farm" in line 16, on page 3.

(3) Amend Senate Bill No. 13 by adding at the end of line 19, Section 5, page 3, the following: "The appropriation of \$50,000 for the purchase of land, made at the First Called Session of the Thirty-fifth Legislature, shown on page 93 of the said Special or Called Session, is hereby in all things repealed."

On motion of Senator Buchanan of Bell, the Senate concurred in the foregoing amendments.

Senate Bill No. 8—Free Conference Committee.

Senator Harley moved that the Senate grant the request of the House that Senate Bill No. 8 be referred back to the Free Conference Committee for further consideration and another report, and that such reference be without instructions.

The motion prevailed.

Recess.

At 12:20 o'clock p. m. on motion of Senator Hopkins, the Senate recessed until 2 o'clock this afternoon.

After Recess.

(Afternoon Session,)

President Pro Tem. Dean in the Chair at 2 o'clock p. m.

Senate Bill No. 26.

Pending.

The Chair laid before the Senate on third reading:

S. B. No. 26, relating to county scrip of Brewster County (see morning's session for caption in full).

The question being upon the motion of Senator Parr to table the pending amendment offered by Senator Lattimore.

The motion to table was lost.

Action recurred upon the pending amendment which is as follows:

Amend the bill by striking out the amendments heretofore adopted except numbers 4 and 7.

The amendment was lost by the following vote:

Yeas—14.

Alderdice.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Dayton.	Lattimore.
Decherd.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hopkins.	Suiter.

Nays—9.

Bailey.	Page.
Caldwell.	Parr.
Collins.	Westbrook.
Harley.	Woodward.
McNealus.	

Present—Not Voting.

Bee.	Hudspeth.
Dean.	McCollum.

Absent.

Buchanan of Bell.	Hall.
Clark.	Henderson.

Two-thirds majority being necessary.

Senator Smith offered the following amendment, which was read and adopted unanimously:

Amend the bill by striking out from the caption and the bill the name of Rusk County wherever the same appears.

The Hour for Court Postponed.

Senator Hopkins at 2:15 o'clock made the point of order that the hour had arrived for the convening of the High Court of Impeachment.

The point of order was sustained.

Senator McNealus moved that the hour for the convening of the Court be postponed for ten minutes.

The motion prevailed by the following vote:

Yeas—26.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Caldwell.	Lattimore.
Clark.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Parr.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.
Henderson.	Woodward.

Nays—3.

Buchanan of Scurry.	Robbins.
Hopkins.	

Absent.

Buchanan of Bell.

Senate Bill No. 26.

(Pending.)

Action recurred upon Senate Bill No. 26 as pending business, the question being upon the final passage of the bill.

Senator Lattimore moved to rescind the vote by which the constitutional rule was suspended and the bill placed upon its third reading.

The motion to rescind prevailed by the following vote:

Yeas—21.

Alderdice.	Johnston of Harris.
Bailey.	Lattimore.
Buchanan of Scurry.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Decherd.	Robbins.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.
Hopkins.	Woodward.
Johnson of Hall.	

Nays—4.

Bee.	Clark.
Caldwell.	Parr.

Present—Not Voting.

Dean.	Smith.
Hudspeth.	

Absent.

Buchanan of Bell. Henderson.
Hall.

Senator Lattimore moved to rescind the vote by which the bill was ordered engrossed, and the motion was lost by the following vote:

Yeas—14.

Bailey.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Decherd.	McNealus.
Floyd.	Page.
Gibson.	Robbins.
Hopkins.	Strickland.
Johnson of Hall.	Suiter.

Nays—10.

Alderdice.	Henderson.
Caldwell.	McCollum.
Clark.	Parr.
Collins.	Westbrook.
Harley.	Woodward.

Present—Not Voting.

Bee.	Hudspeth.
Dayton.	Smith.
Dean.	

Absent.

Buchanan of Bell. Hall.

Senator Lattimore moved to reconsider the vote by which the bill was ordered engrossed, and the motion prevailed by the following vote:

Yeas—14.

Buchanan of Scurry.	Lattimore.
Dayton.	McCollum.
Decherd.	McNealus.
Floyd.	Page.
Gibson.	Robbins.
Johnson of Hall.	Strickland.
Johnston of Harris.	Suiter.

Nays—9.

Alderdice.	Henderson.
Caldwell.	Parr.
Clark.	Westbrook.
Collins.	Woodward.
Harley.	

Present—Not Voting.

Bailey.	Hopkins.
Bee.	Hudspeth.
Dean.	Smith.

Absent.

Buchanan of Bell. Hall.

The Hour for Court Postponed.

Senator Parr made the point of order that the hour had arrived for the convening of the Court of Impeachment.

The point of order was sustained.

Senator Hudspeth moved to postpone the convening of the Court for ten minutes and the motion prevailed.

Senate Bill No. 26.

(Pending.)

Action recurred upon the pending business, Senate Bill No. 26, the question being upon the engrossment of the bill.

Senator Lattimore offered the following amendment:

Amend the bill and caption by striking out of the bill all reference to any county except Brewster.

Senator Parr moved to table the amendment and the motion was lost.

Action recurred upon the amendment and the same was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Hudspeth, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 26 put on its third reading and final passage by the following vote:

Yeas—31.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

The bill was laid before the Senate, read third time and, on motion of Senator Hudspeth, was passed by the following vote:

Yeas—27.

Alderdice.	Buchanan of Bell.
Bailey.	Caldwell.
Bee.	Clark.

Collins.	Lattimore.
Dayton.	McCollum.
Decherd.	McNealus.
Floyd.	Page.
Gibson.	Parr.
Hall.	Robbins.
Harley.	Smith.
Henderson.	Strickland.
Hudspeth.	Westbrook.
Johnson of Hall.	Woodward.
Johnston of Harris.	

Nays—3.

Buchanan of Scurry. Suiter.
Hopkins.

Present—Not Voting.

Dean.

Senator Hudspeth moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

In the Court.

Thursday, September 20, 1917.

Afternoon Session.

(Pursuant to recess, the Senate, sitting as a High Court of Impeachment, reconvened at 2:35 o'clock p. m., the hour to which the Court had adjourned, 2:00 o'clock having been extended on motion in order to dispose of pending matters before the Senate.)

The Chair: The time having arrived for the convening of the Court of Impeachment, the Sergeant-at-Arms will see that the Chamber is cleared of all except those entitled to its privileges, and that the bar is cleared of all except those entitled to its privileges. The Court will come to order.

The Chair: The question is, on the point of order raised by the Senator from Denton to the motion made by the Senator from Bastrop. Is there any further discussion upon the point of order?

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: I merely desire to say with reference to the point of order, that this proposition coming now before the Senate in the way in which it has come, that this Senate, or Court, before it takes a final vote

upon the proposition, has the absolute right to get such legal information upon this proposition as it may desire before casting its vote upon it, and that any member of this Senate has the right to make the motion which I have made, in that that Senator may have light upon whether or not, if the Chair decided this question pro or con, that Senator should not appeal from the ruling of the Chair, but should ask the Chair to submit the matter to the Senate for consideration. Under those circumstances, it is my contention that—I won't put it "contention," but it is my view of the entire matter that the Senate has the right to obtain the information, to obtain the opinion of its Committee on Judiciary No. 1 on any proposition that comes before this Senate, and it does not necessarily transgress the rule which has been adopted by the Court of Impeachment—it is merely that before voting upon this proposition we desire to get such information as we may by the action of our Committee on Judiciary No. 1, in making this investigation. I do not desire to discuss the point of order at any length, that is the position I take about it.

The Chair: Do any other Senators desire to be heard upon the point of order? The opinion of the Chair, Rule 14, probably applies to the question upon the admissibility of the evidence, and if Rule 14 does apply, then the point of order is well taken and the Chair sustains the point of order.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: Let me ask the Chair, make an inquiry upon that ruling, is there here any question as to the admissibility of the testimony, is there any point before this Court as to whether the testimony is admissible or not? Isn't the question that will confront the Court, if anyone does, won't that question be raised not on the admissibility, but as to requiring an answer to the question? Does the Chair differentiate that point?

Judge Martin: Will the Senator from Bexar yield a moment?

The Chair: Will the Senator from Bexar yield a moment to Judge Martin?

Senator Bee: Yes, sir.

Judge Martin: We have deferred interposing an objection until this matter was finally settled on this question of the point of order. There will be a question as to the admissibility of the evidence, because, at the proper time, when this is disposed of, we expect to interpose our legal constitutional objection as to its admissibility.

The Chair: The Chair was under the impression that the admissibility of evidence was involved, probably, in that particular question.

Senator Page: Mr. President. I might respectfully suggest to the Chair that there is absolutely not any question of the admissibility of evidence here at all, the mere question is that the Governor of Texas, having refused to answer certain questions, the Senate of Texas has a right to inform itself as to whether he can be compelled to answer the question, and I want to insist that if the Chair—that the Chair should bear that in mind, that there is no question, as stated by the Senator from Bexar, about the admissibility of the evidence, and I want to say to the Chair further, that this is a question, the consequence of which may be more momentous—and more so than some members of this Senate at this time may anticipate, I want to urge the Chair to be very careful about his ruling upon this particular proposition. I know the Chair means to pass upon the matter just as it appears to him, but this is no question as to the admissibility of evidence. I want to find out, if I may, just how far this Senate may go if the witness refuses to answer this question upon the stand, I want to know what right I have as a Senator of Texas, and what right the Senate of Texas has to compel him to answer these questions, and I submit now the very proposition submitted by the Senator from Tarrant this morning—and I have the highest respect for his opinion on matters of law and matters of the rules of this Senate—that he has stated, if I may be permitted to state here on his point of order—

Senator McNealus: Does the Senator from Bastrop yield?

Senator Page: That the Governor of Texas has consulted the ablest lawyers in Texas.

Senator McNealus: Does the Senator from Bastrop yield?

The Chair: Does the Senator from Bastrop yield?

Senator Page: Just in a moment. I want to state that the Senator from Tarrant has stated truly that the Governor—Respondent in this case has consulted possibly as able counsel as he could command in Texas, and he has probably been advised that he need not answer this question, and that he will not have to suffer the penalty if he does not answer. Would it not be well, then, for the Senate of Texas to take counsel with itself, and refer this matter to the Judiciary Committee No. 1, that before placing ourselves in the position of demanding the Governor of Texas, or compelling the Governor of Texas to answer this question, that we have some power to compel him to answer. I do not desire that the great Senate of Texas at this time be placed in a position that it cannot maintain. I want—that the position that I take in this matter is this, that if the Senate of Texas has a right to compel the Governor to answer upon the stand, then the Senator from Bastrop wants to compel that witness to answer upon the stand, but the Senator from Bastrop, and I think every other Senator ought to know beforehand; we have had no time to investigate this matter from a legal standpoint, and I declare to you now, as a Senator of Texas, I have not investigated that matter, and therefore, I want this matter to go before the Committee on Judiciary No. 1, that they may investigate it, not as stated by the Senator from Tarrant, for the purpose of beclouding the issue—I want to state to you, Mr. President, that if there is one issue that I do not desire beclouded, it is the issue now before the Senate of Texas. I think that any Senator of this State who now would desire to becloud this issue would deserve to have his commission returned—have his commission handed him from the people of this State, taken from him, and be turned from the door of this Senate, in disgrace; I have no such desire—I acquit the Senator from Tarrant of any motive of that kind, because he knows me better than that—but, therefore, I say on this point of order, that I would like for this mat-

ter, and I really believe that the Senate of Texas ought to agree without a dissenting vote, to this matter, should go to the highest committee that this Senate has, that they may investigate it and report back to us; we may not agree with them—I do not always agree with the majority vote of a committee, I do not always agree with the minority vote of a committee. I have not the honor of being a member of Judiciary Committee No. 1, but I have the highest respect for that committee—for the members of that committee, their attainments, their legal attainments. The Senator from Tarrant is one of those upon whom I rely for that matter—to investigate that matter if it goes to the committee.

Senator Hall: Mr. President, a point of order.

The Chair: The Senator from Wharton makes a point of order. Does the Senator from Bastrop yield?

Senator Page: Yes, I yield, Senator.

Senator Hall: My point of order is that the Senator from Bastrop has spoken upon this question more times this morning than the rule authorizes him to do. Now, I want him to yield, I want to make a point of order.

Senator Page: I yield to the gentleman from Wharton.

Senator McNealus: Mr. President, a point of information.

The Chair: The Senator from Dallas.

Senator McNealus: Has the Chair ruled upon the point of order of the gentleman from Denton?

The Chair: The Chair has ruled, the Chair wants to be right about it, if the Chair was wrong.

Senator McNealus: Well, if the Chair has so ruled permanently, and has not changed its ruling, I ask the Chair if there is anything before the Court? If there is not, I ask the Chair for an immediate ruling upon whether the witness shall answer the question or not.

General Crane: Mr. President, speaking for the Board of Managers, I feel that it is due me and them, and counsel—all of the counsel—to make a simple statement of their position.

The Chair: The Senator from Bastrop has the floor.

General Crane: I know, I thought he had finished.

Senator Page: I have not the slightest objection to General Crane's making any statement he wants to make, but if the General will pardon me, I would like to yield to the Senator from Wharton.

General Crane: Certainly—to be sure, I thought you had yielded.

Senator Page: I believe you insisted on the floor of the Senate the other day that you had been recognized only twice during the session, one time, I believe, you asked for the Senator from DeWitt to be excused for a day, and the other time you were marked present, but not voting, but I yield with pleasure to the Senator from Wharton, I would like to hear from him.

Senator Hall: Question. All right. Now, here is what I want to ask you, suppose the motion is adopted and this matter is referred to Judiciary Committee No. 1, and that committee brings in two reports, a minority report and a majority report, then, it has got to be put up to this Court, and then we will be in the same place we are now; there will be a motion made to adopt the minority report, and it will be put to the Court for a whole vote, and we will be in the same position, and don't you know—don't you believe that there would be two reports put out of that committee, because there are members on that committee whose ideas won't mix any more than water will mix with oil, and I object, and there will be two reports, just delaying us that much time, that is my opinion about it. If there is any way to get around that proposition, if it is submitted to that committee and two reports brought in, then, we will be in the same position we are in right now.

Senator Page: Answering the gentleman from Wharton, if I may be permitted, he says that upon Judiciary Committee No. 1 there are two elements, and that those two elements will not any more mix than water with oil—I think the Senator's comparison is not altogether a happy one, and that he might have used in his remarks some other liquid, possibly, than oil and water; but I want to state to the gentleman from Wharton that I do not believe that the vexatious action of which he speaks will influence a single man upon the Judiciary Committee No. 1 of this Senate, therefore, I want to say to you, Senator, that I do not

believe that a single man on that Committee will do anything, will be influenced by anything except when he investigates and finds out what the law of this land is. I want to say to you, that farmer though he be, as was once said by an eminent legislator of Texas, I feel that he will come back and tell this Senate his true ideas about the matter, and declare the law to this Senate, and though there be two reports, one pro and one con, and as the Senator from Wharton would suggest, that we of the Senate would then have the benefit of those opinions and those two divergent views expressed by that committee, they will submit their authorities here and we can go into the matter and declare the law, Senator, as we ought to declare it, regardless of oil, regardless of water, regardless of whiskey, and regardless of wine, we ought to declare the law of the State of Texas here as it exists, regardless of those elements.

Senator Hall: Does the Senator yield?

Senator Page: Or buttermilk, as suggested. I yield to the Senator from Wharton.

Senator Hall: From your experience with this committee, and in your experience of the practice of law, how long do you believe, knowing the members of that committee as you do, it would take them to investigate the matter and make their report—what length of time do you think it would take?

Senator Page: Senator, answering that question, the Committee, Judiciary No. 1, of this Senate, is presided over by one of the most distinguished Southern lawyers that it has ever been my delight or honor to know. That committee is composed of eminent lawyers, and those lawyers represent divergent sections of this State upon divergent issues, which you seem to understand and attempt to inject into this controversy, and which I, as a Senator of Texas, indignantly say ought not to be injected into this controversy. I believe that those lawyers can go out to the library of this State and investigate that matter, and that they can report back to us not later than tomorrow afternoon, and that in the meantime counsel for the Board of Managers and counsel for the Respondent may for the time being lay aside these vexatious matters and proceed with other matters, and that

we in that way may proceed as we ought to proceed, and therefore, let me say to you, Senator, that before we say that the Governor of Texas ought to answer this question, we ought to know that if he does not answer it, we may commit him for some character of contempt; I do not know what our course ought to be, but we ought to know whether we have the power before we demand it. I fear, however, Mr. President, I have unduly taken up the time of this trial, but I believe the Chair ought to be careful.

The Chair: Before the Senator from Bastrop concludes, I desire to call the attention of the Senator from Bastrop to this language of Rule 14 (reading):

"The Presiding Officer on this trial may rule on all questions of evidence and incidental questions."

Now, then, is not this an "incidental" question—incidental question?

Senator Dayton: Mr. President, a parliamentary inquiry.

The Chair: State your inquiry, then.

Senator Dayton: I understood the Chair had ruled on that point of order.

The Chair: The Chair has ruled, and the Senator from Bastrop desired to be heard further.

Senator Dayton: Has the Senator from Bastrop appealed from that ruling?

Senator Page: No, sir, the Senator from Bastrop has, since he has been a Senator of Texas, he has such confidence in the Chair, he never has and never will appeal from the ruling of the Chair.

Senator Dayton: Yes, sir, the Senator—

Senator McNeal: Mr. President—

Senator Page: If the "Senator from Florida" will permit me to say that the Chair, in my opinion, withheld his ruling until he could hear the Senator from Bastrop, hoping thereby he might gain something of value from the fragmentary remarks I might make.

Senator Dayton: Now, Mr. President, the "Senator from Florida" desires to say this in reply: I want to know if the Senator from Bastrop has not spoken six times, if he has not appealed and the Chair has ruled? Then, what is there before the Court?

Senator Page: No, Senator, but you have spoken sixteen times on every other motion.

Senator Dayton: The Senator is mistaken.

The Chair: Let's have order.

Senator McNealus: Mr. President, I asked that same question some time ago, and asked if the Chair had ruled on it, and insisted as a member of the Senate that the Chair should rule as to whether the witness should answer or not. I think I have the right, as a member of this Court, to ask that.

The Chair: The Senator certainly has that right.

Senator McNealus: Then I raise the point of order that there is nothing before the Court, that the Chair has ruled and sustained the point of order of the gentleman from Denton. That being true, this discussion I think ought to be permitted to go on as long as reasonable, but ought not to degenerate into a controversy between Senators, and I ask now that the Chair rule.

Senator Gibson: Mr. President—

Senator McNealus: Mr. President, I insist upon my right to be heard before the Court.

The Chair: The Senator from Dallas has the floor.

Senator McNealus: I am asking the Chair for information. Isn't it my privilege now, as a member of this Court to ask that the Chair rule at once upon this question of whether the Respondent shall be required to answer the question or not, I just ask that?

Senator Gibson: Mr. President, will the Senator yield?

The Chair: Will the Senator from Dallas yield?

Senator McNealus: I yield.

Senator Gibson: I just wanted to ask, if the counsel for the Board of Managers, who are conducting this investigation, when the point arose, wanted to say something, and I think he has the right and ought to be permitted to say it.

The Court: Not on the point of order. I don't think counsel has anything to do with the point of order.

Senator Gibson: Well, it might have something to do with the point of order, I thought, by his rising at the time he did.

Senator McNealus: Mr. President, I insist upon my point of order, I insist that the Chair rule at once upon my point of order.

The Chair: No single Senator has the right to make that demand, if the Chair understands the rule; it can be made, and if seconded, then the Chair can rule.

Senator McNealus: I do not make a demand, I said I requested it, I simply requested that that be done. I would not, if I could, demand.

General Crane: Mr. President.

The Chair: General Crane.

General Crane: Mr. President, the Board of Managers and counsel feel that the Court is entitled to a statement, an unequivocal statement about this matter.

The Chair: Now, the point of order has not been finally ruled on. Do you want to make the statement before that?

General Crane: Why, I thought your Honor had ruled on it.

The Chair: The Chair did rule on it, but we are waiving technicalities.

Senator Page: Mr. President, I would like to hear General Crane, it might have a bearing on the point of order.

The Chair: All right.

General Crane: The Board of Managers desire to be understood here, as counsel were understood in the House; we are not undertaking to have Governor Ferguson punished here, for contempt, by this Court, or any other Court, the Board of Managers are seeking to impeach him, and one of the articles upon which they base their charges is his refusal to tell in the House where he got this large amount of currency. The Board of Managers feel that they have proven that article in their charges. Now, as to whether or not—and we charge it is an impeachable matter, as to whether it is an impeachable matter or not, this Court must determine on the final hearing, but so far as having him punished for contempt of this Court for refusing to answer, we do not want that, we do not want to be run into a blind alley of a habeas corpus proceeding, but if Governor Ferguson is not impeachable by reason of these facts, then we have no controversy—public controversy with him. Now, the Court—of course, we cannot and would not suggest to the Court what it ought to do, but we have felt that in order to make ourselves understood—and I am very sorry that I could not answer

my distinguished friend from Cuero sometime ago, early in the action, what our purpose was—and that is it, that is the reason why we did not ask to have him punished in the House, because we wanted to bring the matter here, to have the hearing upon the larger questions, rather than the power of this Court to punish some witness for contempt—and this is the highest court there is. Now, when we asked your Honor to rule on that question, we did it without any purpose or expectation of this Court undertaking to commit him for contempt, because we did not want that done, we want to try the broader question as to whether or not we have proven facts sufficient to justify his impeachment.

Senator Lattimore: Mr. President.

The Chair: The Senator from Tarrant.

General Crane: And, as suggested by counsel, we have proven here that after the ruling was made in the House, he still refused to answer, and here he refuses to answer, and I presume would do so again.

Senator Page: Mr. President, with the permission of General Crane, if he will permit, on that particular proposition, I think I understand your position about that.

General Crane: Yes, sir.

Senator Page: I think I understood it in the House. Do you not think it would be very important for the Judiciary Committee of the Senate of Texas—or the Senate acting through its legalized committee—to ascertain just what its rights were in the premises; it may be that we do not care to commit the Governor for contempt, and I more than agree with you, that we ought to try the larger question; but don't you think it would be well for us to investigate fully in order that we might vote upon these very questions of impeachment, whether or not we had the right to compel him to answer—that is the only question, I think.

General Crane: Well, Senator, answering you frankly, I believe all these questions are involved in the articles of impeachment. If we have no right to demand an answer to these questions, we would have no right to impeach him, and this withholding of this information, if he had the right

—if he is within his right in doing so, it would not be impeachable matter—but I take it the Court must necessarily determine that, as they must determine many other questions when the entire case is submitted to them on argument. Now, as to whether the Court thought it advisable that it would be better to get the legal opinion of the committee or not, I would not like to attempt to pass on that, but I think it could be disposed of at the same time with the others.

Senator Page: Mr. President, if General Crane will permit—you do agree with me that if we have not the right to compel an answer, then we would not have the right to impeach, because he did not answer, wouldn't that be the correct rule of law?

General Crane: Well, we would not have a right to demand impeachment for failure to answer if the circumstances of obtaining the currency were not such as to constitute it itself. That is a matter—the whole question would have to be gone into.

Mr. Harris: I would like to make this suggestion, that independent of the legal question, whether legally he could be compelled to answer,—but whether he could or not—

Senator Page: I am free to state, I rather think so.

Mr. Harris: But the fact that our Governor, beginning with February, down to April, received \$156,500 in currency and declined to answer, is itself an answer of circumstance the Senate should consider, independent of whether he could legally be compelled to answer.

Senator Page: I am inclined to agree with counsel to this extent, that I think he ought to answer, as a matter of right; but as a matter of law, can you impeach him for not answering, if he is within his legal right?

General Crane: Now, Senator, you know I have really never considered him as being within his legal right, for this reason: that when a witness is put upon the witness stand, there is but one thing that he can claim his privilege on, that he can refuse to answer, and that is that his answer would incriminate him; he cannot refuse to answer because it is going into his private affairs, because when he is put on the witness stand his private affairs can be looked into whenever the circumstances are such as to lead the Court to believe that

it may be necessary to inquire into his private conduct.

Senator Page: General, I agree with you on that, we couldn't have any argument about that, because I thoroughly agree with you. Still, the point I was going to make is, we cannot impeach the Governor on this answer.

General Crane: To be sure.

Senator Page: Therefore, I would like to know whether we have the legal right to compel him to answer.

General Crane: Well, I think we have—but that is a question, I think, Senator, that we could argue out with the whole case. However, though, mark you, I do not want to be suggesting what the Senate should do—that is a matter for the Court.

Senator Lattimore: Mr. President.

The Chair: The Senator from Tarrant.

Senator Lattimore: I just want to say, Mr. President, that if we have clearly before us the exact grounds—

Senator Bailey: Louder, please.

Senator Lattimore: Who was it said "louder"?

The Chair: Some member of this Court.

Senator Lattimore: Not anybody in the gallery, I hope?

Senator Bee: No, sir.

Senator Lattimore: I say, Mr. President, if we had clearly before us just the extent to which this matter was set forth in the articles of impeachment and should keep that matter clearly before us, it might help us very much in arriving at a correct settlement of this seemingly vexing question of evidence, and I just want to call the attention of the Court and of the Chair to that—Article 11 says—

"That in this investigation of James E. Ferguson by the Committee of the Whole House of Representatives, said James E. Ferguson testified that during the regular session of the Thirty-fifth Legislature, and shortly thereafter."

Now—

"And the receipt of such sums in currency,"—

It has already been answered—

"And the failure to account for same, constitute official misconduct."

Now, Mr. President, the matters that are charged in there have already been answered; two matters that have been set up by the inves-

tigating body which returned these charges have already been testified about, the receipt of the currency under the circumstances, at the time, under the surroundings mentioned, and the refusal to answer—why should the Senate seek to go any further?

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: I will not detain the Court, except to dissent from the judgment of some of my friends on the question of whether or not the Governor's answer has any connection with whether or not the conduct charged in this article is impeachable. It occurs to me that the Senate—that the Court can decide whether the fact that this money was received under the circumstances received, constitutes an impeachable offense, whether there is any answer ever made by Respondent or demand of him that he answer the question, it is outside and independent of it—his refusal to answer, and the circumstances in connection with it would not be conclusive as to whether the circumstances surrounding the financial transaction constituted such official misconduct as required a vote of impeachment.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas? Senator, let the Chair finally dispose of the point of order first.

Senator McNealus: I wanted to ask a question of the Court?

The Chair: Yes, sir, all right.

Senator McNealus: I want to know if the Court considers, or the Chair considers he has the right to insist that the Respondent shall answer or shall not, has the Court that authority, now, under the rules that we have adopted, Rule 14, and others? I just want to know if the Chair considers the—

The Chair: The Chair is going to put that question to the House—to the Court as a whole, if the question is insisted on.

Senator McNealus: Well, could not any one member of the Court insist that the Chair rule on it?

The Chair: The Chair is going to rule now on the point of order, and no member of the Court can require the Chair to rule on the other question, because under the rule the

Chair has the right to submit that to the entire Court.

Senator McNealus: I was asking if the Chair hasn't the right to submit it, if he considers he has the right and authority to so rule, if he desires.

The Chair: Yes, sir.

Senator McNealus: That is all I want to know. I think it is pretty nearly time that we had a ruling of some kind.

The Chair: Well, the point of order will be overruled. The Chair does not exactly understand the status of this. If the Counsel for the Managers are not insisting on an answer to the question, what is the necessity further now?

General Crane: Well, Mr. President, I thought I had made that plain. We do want the questions answered, or we would not have asked them—but I say if the Court shall say that he ought to answer the questions, that we do not want to degenerate this into a contemptible proceeding, we want to continue the impeachment proceedings.

Senator Page: If I might be permitted, I would state to General Crane, I do not believe that General Crane so understands that I am trying to sidetrack the impeachment proceedings.

General Crane: No, no, I don't understand that, I understand you, Senator.

Senator Page: All I want is, General, and I think you understand me.

General Crane: Yes, I do.

Senator Page: —is to get all the light we can get.

General Crane: To be sure.

Senator Page: You have asked this question, therefore, it does not devolve upon you to compel an answer, and we are the Court to compel the witness to answer, or else to take such course as we see fit, I, for one, state frankly, I am not in favor of contempt proceedings against the Governor of Texas, but I do want to know what I have the right to do, and that is the reason I have made the motion I have made.

General Crane: Yes, I understand you, Senator.

The Chair: The question is now, shall the Respondent be required to answer the question—the questions propounded?

Senator Bailey: Mr. President.

The Chair: In arguing this, I wish to state to counsel and to the members of the Court, that the Chair is going to submit this question to the Court.

Senator Bailey: Mr. President.

The Chair: The Senator from De Witt.

Senator Bailey: Before that question is submitted and that we may know what we are doing, I ask that the question be read by the Court Reporter, and let us know what we are going to vote on, what we are going to say he shall answer, or what he shall not—whether he shall answer or shall not, that each question be submitted to us, if necessary, seriatim, and that if there is no controversy over the questions, they will all be submitted at once; but we ought to know as a Court, and before we vote, what questions we are going to say the Respondent shall or shall not answer.

The Chair: The Reporter will turn to the questions and read the questions to the Court.

Senator Page: Mr. President, that I might understand the question now before the Senate, and I sincerely beg the pardon of the Chair for being on the floor of the Senate so much, I understand the question now is, that Counsel for the Board of Managers have propounded these questions, and the Governor—the witness has refused to answer them. I move that that question as to the power of the Senate to compel him to answer, be referred to the Committee on Jurisprudence.

The Chair: And that is the question, the point of order has been overruled.

Senator Page: I don't understand you, then, I didn't know you had overruled the point of order.

The Chair: I intended to state that the point of order is sustained.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: As I said this morning, the Senator from Bexar is ready right now to vote on this question, but I think as a matter of courtesy to counsel for both House Managers and the Respondent, they ought to be asked whether they desire to ask these questions before the Senate, before the Senate takes a vote.

The Chair: The Chair has already

made the suggestion they could argue it, or submit it without argument, as they wish, because the Chair has submitted it to the entire Court.

General Crane: We are willing to submit it without argument, without taking any time.

Judge Martin: Mr. President, we just say we are not waiving any rights.

The Chair: The Senator from De Witt wanted those questions read, let's have them read.

Senator Bailey: Mr. President, there were three questions asked by some Senator—I think by the Senator from Bastrop—which may be lying upon the desk.

The Chair: Those questions were asked by the Senator from Bastrop and three by the Senator from Anderson.

Senator Bailey: Those questions were, first, whether the money was obtained from any brewery; second, from any pipe line, and third, from Jesse Jones.

The Chair: Well, they have been sent for—they should be in the record there.

Reporter: They have asked me to look for some ahead of that.

Senator Gibson: Mr. President, it occurs to me that in the propounding and answering of this question it could all be involved in one. I don't see any use of us taking a vote on every proposition, every question that was asked, regarding this transaction. Now, his objection was, and there is only one question, and that is as to whether the Governor shall be compelled, or whether we shall demand that he answer the question with reference to the \$156,000 transaction. That is all it is. It is just simply one question, it is not worth while to take up the time of the Court and to submit all this series of questions that have been asked in regard to that matter. It all involves the same thing, and the Governor's answer to each question was exactly the same.

Senator Bee: Mr. President, will the Senator yield?

Senator Gibson: I yield to the Senator from Bexar.

Senator Bee: Would it not be in line with the Senator from Fannin to let the question be propounded: Should the Governor of Texas be required to answer all of the questions with reference to the \$156,-

000? That would save the separation.

Mr. Henry: Mr. President, if you will permit me, you will remember when the first question was asked, the Respondent gave rather an elaborate answer to that, and we think it is right that the Senators should have the benefit of his reply to that first question that was asked by counsel for the Managers, and I think we could better understand it by referring to that first original question, and then taking all the Governor's answers which were given at length, then the other questions are in line with the first, and the answers the same. It seems to me the official reporter ought to find that, then it be submitted to the Senate.

The Chair: The question now is not the questions that have been answered, but the questions that have not been answered.

Mr. Henry: Yes, but his reply is a part of the proposition now pending before the Court, and include his reasons. If the Court will recall he gave his reasons, and at considerable length, for not answering—

Senator Bee: Will Mr. Henry yield?

Mr. Henry: Yes, sir.

Senator Bee: It occurs to me the statement made by the Governor in connection which led up to the refusal would be considered in connection with it.

Mr. Henry: Yes, but I think that his reasons should be read before the Court.

Senator Hudspeth: In his declaration to answer each question he stated, "I refuse to answer this question for the reasons heretofore stated."

The Chair: Does the Senator from DeWitt insist on having all the questions read?

Senator Bailey: I simply want to know in the aggregate or seriatim, what we are going to compel the Governor to answer, so we shall know how to vote intelligently. If the Chair can state from his recollection and prefers to do that without having the questions put, I have no objection, but I want to know what I am voting on here when I am voting to say whether or not the Governor shall answer.

Mr. Henry: Mr. President, if I may be permitted to respond to what the gentleman has said, the

point I made, I don't know whether the Senator heard me or not, was that when the question was read, then the responses that the Governor made should be read also because he gave his reasons when he declined to answer the questions, and that is a very material part, it is a very vital part of the question now pending before the Court.

General Crane: Mr. President, I believe possibly counsel on our side could agree here to such questions submitted to the Court, then the Governor's reasons ought to be stated in his own language. I take it that is but fair, and it seems to me that the questions propounded, asking him where, when and from whom, and under what circumstances he received this currency, \$156,500, and in what amounts he received it, from whom, if he received them from more than one, all of which he declined to answer.

Mr. Henry: That is all right as far as the questions go, but exactly what the Governor said, that should be read from the stenographer's report.

General Crane: I am suggesting that, but I was only getting the question, if they agreed to such. Then I think it is but fair to read the reasons why he would not state that, he declines to answer when, where, or from whom he obtained this currency, and how much from each.

Mr. Henry: There is no objection to that, that states the question, now find the response.

General Crane: Then in addition to that he refuses to answer questions propounded by the Senator from Anderson, I believe.

The Chair: I believe the Senator from DeWitt recited the question in substance as propounded by the Senator from Anderson.

Senator Strickland: Second reading.

The Chair: The reading of the Governor's answer is called for.

General Crane: Mr. President, one of the Board of Managers has called my attention to the fact that I have omitted one thing, and that is the Governor likewise refuses to state whether this amount of money was secured in any manner whatsoever. We ask it.

The Chair: If the reporter can find the responses.

The Reporter (reading): "Now, at

that time (that was in the House investigation in March) you stated some friends of yours got together and made you a loan of \$156,500." "Yes, sir." "Just what date was that loan made?" "Well, that brings up the question that we are going to come to sooner or later, and I want to make this statement." "The Chair requests you to speak louder." "I say, that brings up the question that we are going to get to, and about which everybody has been interested, and so I just want to say here without any disrespect whatever, without intending any discourtesy to this Senate or anybody else, I must decline to give any information about that loan because in the first place to get the loan I had to give my promise that I would not disclose the name of the person who let me have the loan, and in addition to that if I were to disclose it you could open up and examine all my private books, papers and records, which would entail upon me a great financial loss, and in effect forfeit my property, and for that reason I must respectfully decline to tell you anything about the details of that loan."

The Chair: The motion now is shall the Respondent be required to answer the questions. Do counsel desire to argue this question.

Judge Martin: Yes, sir.

The Chair: Judge Martin.

Judge Martin: Now, Mr. President, these other matters have taken up some time of the Senate, and we didn't interpose an objection at the time until these other matters were disposed of.

The Chair: Let's have order please. Visitors in the gallery preserve order in the gallery, please.

Judge Martin: Of course, expecting to introduce our objection at the proper time, which we now conceive has arrived.

In the first place, we take the broad position in this examination that this Respondent is protected in the Bill of Rights, from giving this testimony, for the reasons that he has heretofore stated, and other reasons embodied in the several sections of the Bill of Rights.

In discussing this matter, of course, we have to take and do take, the same position that we have heretofore urged, with all due respect to the Chair, that this is in the nature of a criminal proceeding, so defined

in the Constitution of Texas, and other authorities cited, but waiving that for the present and arguing it from the standpoint and in conformity with the ruling of the Chair, that it is a quasi criminal proceeding, as we understand by that term and the definition of what it means in substance, as it were, or analogous, but in other words that this proceeding, as it were, is a criminal proceeding, or analogous to a criminal proceeding. Of course, as I say, without waiving our contentions heretofore that it is a criminal proceeding, yet for the purpose of this argument we want to place it upon the standpoint and in conformity with the ruling of the Chair, that it is analogous to a criminal proceeding. Now, we find embodied in the Bill of Rights in Section 9 of Article 1, "The people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches and no warrant to search any place or to seize any person or thing shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation." In other words, Mr. President, the Bill of Rights of this State protects the persons from unreasonable searches and seizures. In this case the reason given by the Governor, under his oath, is that an answer to this question would in effect, result in the seizure of his private papers and exposing them to public gaze, and in addition to that would result in effect in a forfeiture of his property or estate, against which he is protected under the Bill of Rights of the State of Texas.

Again, on the theory that this is a quasi criminal proceeding, and that the same rules are analogous to the admissibility of evidence, as in criminal cases, our Constitution provides on that subject that in all criminal prosecutions the accused shall have a speedy public trial by an impartial jury, he shall have the right to demand the nature and cause of the accusation against him, to have a copy thereof, he shall have the right of being heard by himself or counsel or both, and shall be confronted with the witnesses against him, and shall have compulsory process of obtaining witnesses in his favor, and no person shall be held to answer for a criminal offense unless on indictment of a grand jury, except in cases in which the punish-

ment is by fine or imprisonment otherwise than in the penitentiary, and in cases of impeachment, and in cases arising in the army and navy or in the militia, when in actual service in time of war or public danger. In other words, the Constitution provides that he shall not be compelled to give evidence against himself; that he shall be confronted with the witnesses against him and have compulsory process for their attendance in Court.

Now, Mr. President, in this case, what are the circumstances surrounding it? I might say that this rule is further borne out by Mr. Greenleaf in his excellent work upon evidence, Section 453 in Volume 1 of his 15th edition, he lays down this proposition, where the answer will subject the witness to a forfeiture of his estate, in this case as well as in the case of an exposure to a criminal prosecution, or penalty, it is well settled that a witness is not bound to answer, and this is an established rule in equity as well as law. The rule as laid down by Mr. Greenleaf is in effect in conformity with the terms of the Bill of Rights which provides in effect the same thing, that all persons shall be secure against unreasonable seizures and searches of their papers or property, and followed up by the succeeding article that he shall not be compelled to give evidence against himself, and shall have compulsory process for their attendance. Now, what are the conditions here? We have in this case a charge lodged against the Governor. He tells this High Court of Impeachment under his solemn oath, that through no disrespect to this Court, but standing on the high ground of his constitutional privilege, a privilege that has always been cherished by every true born citizen, whether he be official or layman, and that for that reason alone he stands upon the high ground of his constitutional rights, and declines to answer the question.

I take it that counsel for the House Managers will take the position that he having volunteered himself as a witness in this case, thereby this privilege has been removed and that he can no longer claim it, but, Sir, what character of charges are made here? We find here in these charges against the Governor twenty-one separate and distinct grounds. In other words, he is called upon to

answer twenty-one separate and distinct indictments. Would this Court hold that when those charges are preferred against him, under all twenty-one indictments, any one of which this Court should see fit to find that it was cause for impeachment, would warrant the high penalties provided by the Constitution, that he would be deprived of his right to go upon that stand and answer as to any twenty of them and yet refuse to answer as to the other? In other words, that he could go upon the stand and under the provisions of the Constitution to testify as to fifteen or twenty of the several charges, indictments against him, would any court claim that by reason of him doing so that counsel for the House Managers could then take up the other charge, about which not one single solitary syllable of evidence has been testified to by him, and without confronting him with the witnesses as provided in the Constitution, that he could then be compelled to give evidence against himself upon a charge upon which he has offered not one word, nor volunteered a suggestion concerning the transaction? On the other hand, would any Court contend that he having testified as to these other charges, that it would be a matter of impeachment? I understand the rule to be in criminal cases that when a witness takes the stand on a particular charge of horse theft or murder, or offenses of that character, that he can be cross examined by the opposite party in regard to that identical transaction; that he can be required to answer and give his testimony as to the matter under investigation in that case, but would this Court hold, or any other Court hold, that he could go outside of that and inquire about other offenses foreign to and not connected with the particular transaction under investigation.

I understand, Mr. President, that for the purpose of impeachment you can ask a man if he has been indicted for a felony, or convicted of some offense involving moral turpitude, but we have no such position here, there is no such charge laid that you could distort into a reason for impeachment and a matter about which he has not testified in his direct examination. On this particular charge they cannot, according to the terms of this Constitution, as I understand it, avail themselves of his testi-

mony. I do say that the provision of the Constitution, that he shall be confronted with the witnesses against him, and to require him to give evidence concerning every transaction which they lay as cause for his impeachment. Certainly, it is not the rule of the Constitution or the Bill of Rights, it is not the rule of evidence laid down by law writers for lo, these many years, and as stated, I say, your Honor, there is no criminal charge laid in this complaint they seek to require him to answer, in other words, to go on a fishing expedition about a matter upon which they have offered not a syllable of testimony and fish from the Governor sufficient evidence, in their opinion, to create a suspicion, or to lay a charge against him upon which articles of impeachment may be based.

In order to understand this question thoroughly, at the time these charges were preferred in the House, and the record will show that no charge of this character was made there at this time, it stated that the Respondent, when upon the stand, and let us read the charges now, to understand them:

"That in this investigation of James E. Ferguson by the Committee of the Whole House of Representatives, said James E. Ferguson testified that during the Regular Session of the Thirty-fifth Legislature, and shortly thereafter, he received from parties certain currency in varying amounts, the total of which was about \$156,500; that said transaction is unusual and questionable, and that the said James E. Ferguson when questioned as to who loaned him this money declined to answer although the officer of the Committee of the Whole appointed to pass on the admissibility of testimony ruled that he should answer and the Committee sustained said ruling. That he is thus not only in contempt of the House and its committee, but he insists that he is not required to give before the representatives or the people of Texas an accounting of said \$156,500 in currency which he received during the session of the Legislature, or shortly thereafter." Now they allege that all of that occurred over in the House, and "that the receipt of such money in currency, and the failure to account for same constitutes official misconduct."

Now, Mr. President, as I just stated,

it is well known and of legislative record that at the time these facts occurred in the House there was no charge pending at that time against the Governor for this purpose, but during the investigation of other charges this matter developed, and they claimed that he refused there to answer as to the source of this \$156,000, and that he is not only in contempt of the House, but that it constitutes official misconduct.

Now, waiving for the present the Constitutional provisions which protect him under the Bill of Rights, the rules of evidence heretofore stated, the rules of practice in the District Court in trying when indicted, and compelling a witness to testify against himself, as to separate and distinct offenses, which are prohibited, let us go for a moment to the charge itself and see whether or not this testimony is admissible. The charge they submit to this Honorable Court as a matter of impeachment, that his refusal over there, not here, but his refusal over there in the House of Representatives to answer these questions constituted official misconduct. Then if that is the charge against him, for some act committed in the House of Representatives, and that fact is admitted in his evidence here, where is it necessary that he answer any further in order for this body to proceed? In other words, they charge him with certain conduct in the House of Representatives for which they ask this Senate to vote upon him the penalties of impeachment; not for something that he has done over there, or something he refuses to do here, but the charge is that by reason of those things occurring there, and a failure to account for the receipt of currency, that the same constitutes official misconduct. Then, if his refusal in the House of Representatives, if his declination there to answer these questions constitutes ground, I submit in all due candor to every lawyer in this Senate that this case that you are trying him upon, although he might be in flagrant contempt of this body, you have no right then to visit upon him the extreme penalties of impeachment for the reason that it is not a basis of charge against him. In other words, he might decline to answer the question, waiving the Constitutional provisions, to wipe that all out of it, out of the case, and yet you could not possibly inflict this penalty, you could

not consider his declination, his refusal here, because it is not embraced in this charge. There is a difference in the allegations entirely as to what constituted official misconduct over there, and the contention made here of his doing something in contempt of this Senate. In other words, under these charges this Respondent is on trial before this High Court today for acts already committed, and not bound or on trial, for acts to be committed by him in the future, or committed here at the present time. Under every provision of the Constitution it would be violative of that right that he should be confronted with the witnesses against him, and have a copy of the accusation against him. This Senate could hold he was required to give evidence against himself, evidence which he says, under his oath, would result in the forfeiture of his property; that is, which would be waiving or taking away the burden of counsel for the House Managers to confront him with the witnesses and by requiring him to make out a case from their standpoint without putting witnesses on the stand or producing a syllable of evidence that would warrant this Court in finding these charges are sustained, and I believe that under this charge, as stated by the Senator a while ago, I believe the Senator from Tarrant, that the whole gist of this charge that is there embodied in the conclusion of charge No. 11, and that is, that his acts over yonder in the House constituted the official misconduct for which he is on trial.

I want to say, Mr. President, and to the members of this Court, that this is an important question, it is one that reaches out and affects you and yours, affects me and mine. It has been the proud boast of every Texas citizen since I can remember or have any record of history, that they have always stood for the sacred principles embodied in the Bill of Rights, that every man should be secure in his person and his property, should not be compelled to give evidence against himself and should be confronted with the witnesses against him, and if the time ever comes that the Court shall go off on this proposition and require men placed upon the stand to give evidence against themselves in matters outside of the provisions of the law, the time will soon come when

no man in this grand old State of ours will be secure in those sacred rights that we have so long cherished. Why, on the possibility of impeachment alone it would not be admissible. Why? Because there are only two classes of crime that would be admissible even to affect the credibility of a witness, and that is in an indictment preferred against him, or conviction for a felony, or a conviction involving moral turpitude. Why, under the decisions of this State, take a man, have him on trial for carrying a six-shooter, a trivial offense as that may be termed, and yet the courts of this State have held in the case of Payne against the State, 38 Criminal Appeals, you could not even ask him there if he had been guilty of carrying a pistol before. There is no definition of any felony embodied in this charge, it is a separate and distinct one, out of twenty-one separate indictments against this respondent, about which he has offered no evidence. Then how could they take him on the stand and from his lips seek to introduce here evidence without confronting him with the witnesses against him. We understand that it would be violative of every principle enunciated in the Bill of Rights and the Constitution to which he has referred. The same principle—I read from the 39th Texas Criminal Appeals in the case of Ex Parte Wilson, and the Court in speaking—

General Crane: What page?

Judge Martin: Page 638. I have not read it all. This is a case where the witness appeared before the grand jury. "In all criminal prosecutions the accused shall not be compelled to give evidence against himself." Bill of Rights, Section 10, which I have just quoted, and this was such a criminal prosecution, when entertained before the grand jury as if it had been before the Court. The question was thoroughly discussed and the authorities reviewed in *Counselman v. Hitchcock*, 142 U. S. 547, 12 Supreme Court 195, and we refer to that decision and the authorities cited. The same principle that protects a party against being compelled to give in oral testimony incriminating himself is also applicable when it is sought to require him to surrender any of his private books or papers. See *Boyd v. U. S.*, 116 U. S., 616, 6 Sup. Ct. 524. We

quote from that case as follows: "Any compulsory discovery" by extorting the party's oath or compelling the production of his private books and papers to convict him of crime, or to forfeit his property, is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman, it is abhorrent to the instincts of an American. It may suit the purposes of despotic power, but it cannot abide the pure atmosphere of political liberty and personal freedom." This is the rule announced by the Court of Criminal Appeals of this State. There is where the witness appeared before the grand jury and they held that the same rules applied in an investigation before the grand jury as if the investigation had been before the court proper and that no rule requiring the witness to produce his private papers which would result in a forfeiture of his property—they enunciated that rule, which I have called this Court's attention to in the opening objection.

Now, sir, we submit in all candor the Governor has stated in his explanation that these men came to him as his friends at a time when he needed their assistance, and as a solemn injunction they required of him this faithful promise. He states under his oath that promise was made in all fairness, that there was nothing illegal about it, that it was not in violation of law, that it was not given for any illegal purpose, and that it was a square, honest deal and that laboring under that injunction from them that he would not violate his promise if it cost him the office of Governor, and in this connection there was told this Court under the sanction of an oath that it would result in the examination of his private books and papers, and subject his property to forfeiture, and therefore, standing upon the broad principles of the Constitution and the Bill of Rights and the laws of this State, he stands before this Court in the God-given majesty of a Texan and demands his rights as he should, with the consent and advice of his counsel, and under the provisions of this Constitution we believe that he is protected from giving this evidence, and that it would be an injustice to him, and in contravention of the rules of law which obtain in this State, for him to be required to

answer this question and more especially, as I have heretofore stated, that from whom he got the money is immaterial to this inquiry because these charges alleged here, are admitted on the stand by him, that he borrowed the money, borrowed the amount, and that he declined to answer, the testimony over in the House, and that is the only charge made against him in these articles and the evidence and the record in this case now show that this Court has before it every single word of testimony that has a bearing upon these articles, because they have charged there that it was official misconduct, what he did over yonder, but he has admitted it before this Court that he has done everything that they charge that he has done, and if he makes an admission, comes before this Court and admits the allegations as charged in there, except as a conclusion as to what would constitute official misconduct, it would be immaterial before this Court whether he got the money from Tom Jones or John Smith or Tom Brown, so far as that is concerned, and it would be immaterial as to naming the parties from whom it was obtained.

Now, General Crane says that he don't want it to go off, to be side-tracked and ditched off into a habeas corpus proceeding. That is not our desire. Our desire is simply to meet this issue as the charges are laid, and to testify to matters that we think are right under the law and Constitution that we should testify. Whenever it comes to asserting an unconstitutional or illegal right, God forbid that the time will ever come in this State or any other State of the American Union that a man can not stand upon the floor of this Senate, or anywhere else in Christendom and assert his rights under the laws and Constitution of this State.

It may be that some would prefer another course, but I for one, as I understand the Constitution and laws of the State wherein I reside, I believe that it is the better course, although some other policy, some might think it would be a better policy, but I believe the better course is to pursue the track of the law, follow the Constitution and the laws that are written, and then we will all be upon safe ground, and with all earnestness, Mr. President, we submit this question to your Honor, be-

lieving under the allegation of this charge, that this testimony is inadmissible for any purpose and that the Respondent should not be required to answer the questions propounded.

General Crane: Mr. President.

The Chair: General Crane.

General Crane: May it please the Court, I believe you are submitting this question to the Court itself.

The Court: Yes, sir.

General Crane: Yes. I have been unable to find any relevancy in the Bill of Rights to the question now before this Body. The sections of the Bill of Rights that are being read, and have been read, to us, "that no unreasonable seizures and searches shall be allowed, the people shall be secure in their persons, their houses, papers, and possessions, from all unreasonable seizures or searches." Now, we are not seeking to search anybody, to get any papers, we are not seeking to search anybody's house to get anything, what we are seeking to do is to compel a witness who has placed himself upon the witness stand to answer the questions propounded upon a matter which his testimony has heretofore stated. The other section, Section 10, seems to us to be equally irrelevant, and a mere glance at it is sufficient to demonstrate that. It says, "in all criminal prosecutions the accused shall have a speedy public trial by an impartial jury." I fancy it is not suggested that that section has any application here: "He shall have the right to demand the nature and the cause of the accusation against him, and to have a copy thereof." That has all been done, even if this were construed to be a criminal case. "He shall not be compelled to give evidence against himself." That is quite true, unless he puts himself upon the witness stand, but I think counsel on the other side of the table will agree that if a man charged even with murder puts himself on the witness stand, he can be compelled to answer questions although they do tend to incriminate him in the particular case in which he is being tried. "And no person shall be held to answer for a criminal offense unless on indictment of a grand jury except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases

arising in the army or navy, or in the militia when in actual service in time of war or public danger." Now, I have glanced at this simply for the purpose of showing that they never have had the matter in hand.

Now, the fourteenth Encyclopedia of evidence, we find the authorities fairly well collated on this very subject, it lays down the rule as follows: "It is of course a universal and general rule that a witness can not refuse to give evidence on the ground that it will result in disclosing his private affairs. With some classes of cases the Court in the exercise of its discretion will sustain such an objection," but now here is the class of cases to which that refers. "On a petition of a son for the appointment of a guardian for his mother the Court will properly refuse to compel her to disclose the contents of her will. The reason of that is the witness is still living, the property is hers, and she can revoke the will, they can not compel her to say to whom she has made the will, or to whom the property shall be given, because he had no right to inquire." That was an entirely different sort of a proposition. "A witness can not lawfully refuse to answer a question because the answer may tend to subject him to a civil suit or liability; the privilege against self incrimination has no application in such case." Now, here is the gist of the whole argument that they make, that if he answers these questions which have been propounded to him, it will entail on him pecuniary loss. Now, here is what the authorities say on that subject, page 634. "A witness may be called and examined in a matter pertinent to the issue, where his answers will not expose him to criminal prosecution or tend to subject him to a penalty or forfeiture, although it may adversely affect his pecuniary interest."

Senator Hudspeth: General, what authority are you reading from?

General Crane: I am reading from the 14th Encyclopedia of Evidence, published by L. D. Powell Co.

Now, there is no claim that this will cause any forfeiture within the meaning of that. When we speak of a certain act causing a forfeiture, it means a legal forfeiture, it does not mean that some pecuniary loss may not result from the disclosures made,

but it means his disclosing facts upon which some legal forfeiture will be affected. "A witness cannot lawfully refuse to testify to facts material to the issue because his testimony may have a direct tendency to disgrace or degrade him. The refusal of a witness to testify to material facts upon such ground justifies inferences unfavorable to his testimony by a jury. In some early cases, however, the rule was broadly stated that the tendency to degrade or disgrace the witness was ground for a claim of privilege. Others held the exclusion of the evidence a matter resting in the Court's discretion. In one State privilege is apparently extended by statute. Now in an impeachment case in England," reading from page 634, a note, "In England this subject underwent much discussion pending the impeachment against Lord Melville in 1806, upon which occasion the question was put to the judges by the House of Lords. The question was presented in two or three different forms, slightly varying in terms, but it was substantially the same in each. Eight judges and the Chancellor were of the opinion that the witness was bound to answer a question, although his answer might render him liable to a civil action; the other four judges expressed a contrary opinion. In order to remove the doubts which such a difference of opinion among eminent judges implied, an act was passed, 46 Geo. III, c 37, declaring that a witness cannot by law refuse to answer a question relevant to the matter in issue, the answering of which has no tendency to accuse himself, or to expose him to a penalty or forfeiture of any nature whatsoever, by reason only, or on the sole ground, that the answering of such question may establish or tend to establish that he owes a debt or is otherwise subject to a civil suit."

Our case that we make on this proposition is as follows—let there be no misapprehension of it:

"Article 11. That in this investigation of James E. Ferguson by the Committee of the Whole House of Representatives, said James E. Ferguson testified that during the Regular Session of the Thirty-fifth Legislature and shortly thereafter he received from parties certain currency in varying amounts, the total of which was about \$156,500. That said transaction is unusual and questionable and that the said James E.

Ferguson, when questioned as to who loaned him this money, declined to answer, although the officer of the Committee of the Whole appointed to pass on the admissibility of testimony ruled that he should answer, and the committee sustained said ruling. That he is thus not only in contempt of the House and its committee, but he insists that he is not required to give before the representatives of the people of Texas an accounting of said \$156,500 in currency which he received during sessions of the Legislature or shortly thereafter, and the receipt of such sums in currency, and the failure to account for same, constitutes official misconduct."

That was the opinion of the House in passing that article. And now let me advert to the singular sort of a situation in which we find ourselves. I do not know and I can not understand how any man, after he has disclosed the fact that he is largely indebted to somebody in a certain sum of money—I can't understand how it will adversely affect his interests for him to name the persons to whom he owes that money. I can not, to save my life, grasp any sort of a situation where a man, if he once admits his indebtedness, how it can hurt him to have it known that he owes A, B, or C, or to whom he may be indebted. Now, I can well understand how a man in some commercial conditions might not wish it to be known that he was involved in debt at all—that is easy to understand; but when the facts are admitted that he does owe the money and that he owes it to individuals and yet refuses to disclose the names of the individuals, that is such an unusual circumstance, and seems to me from every sort of a position to be so unnecessary that it naturally arouses the curiosity, if not the suspicion, which may crystallize into conviction adverse to the man who thus maintains that position. I think that the people of this State, acting through their representatives, have the right to know from whom the Governor of their State, clothed with such enormous power as that Constitution clothes our Governor with, from whom he receives these extraordinary favors, with whom he enters into treaties of absolute secrecy—we have the right to know that. God knows, I will be glad, if the facts disclose that it leaves no blot upon the

memory or the name of the present Governor. I am a Texan as well as these gentlemen—I was not born here, but I came here and expect to die here; and I would be glad for it to be written down in the history of this State that no dishonest dollar had ever crossed the palm of any man who occupied the executive chair, and I am asking the Governor of this State on that platform and from that witness stand, to disclose the fact, to the end that there may not be any doubt about it, but that the facts when told will exonerate him if it is an honest transaction, but if it was a dishonest transaction the people are entitled to know that fact just as well.

Now, to say, if any of you gentlemen—any of you Senators can conjure in your mind, can for one moment understand how, if you were involved in debt and I was your friend and had money and I was to come to you and be perfectly willing to risk you with the amount of money involved,—I ask you to think for one moment how I could object—the lender—to having it known that I loaned you money. Why, Mr. President and Senators, that is the reason why we insist on these questions. We think that when a Governor, or any other officer, receives such large sums of money in absolute currency, not in checks, not in drafts, not in express receipts—nothing of that sort, but in currency, to the immense amount of a hundred and fifty-five—a hundred and fifty-six thousand five hundred dollars, and will give no explanation of it, I think that any court is authorized and justified in reaching the adverse conclusion, and therefore that the Court has the power to compel the disclosure.

Now, in making these arguments I am stating frankly what I believe the law to be. To be sure, I may be mistaken, but reason and right alike demand that any officer clothed with the power that a Governor is clothed with, ought not to have secret creditors from whom he receives money in such enormous amounts and at the same time refuses to disclose a single item of information in respect thereto. I think, therefore, that the evidence is admissible.

The Chair: Any further argument on behalf of the Managers?

General Crane: No further.

The Chair: Anything further?

Judge Martin: No, sir, we have stated our position fully.

The Chair: The question is, shall the witness be required to answer the questions. The Chair will submit it to the Court.

Senator Hudspeth: Mr. President.

The Chair: Senator Hudspeth.

Senator Hudspeth: Just to get the matter clear in my mind as it presents itself to the Court,—as I understand, the Court has ruled that he must answer the questions.

The Chair: The question has not been put to the Court yet. That is the very question that is being put to the Court now.

Senator Hudspeth: I understood that when the Chair sustained the point of order that he stated then that he held he must answer.

The Chair: No, the Chair did not rule on that.

Senator Hudspeth: Didn't he?

The Chair: No, the Chair stated he would submit that question to the Court.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I believe that every member of this Court, layman as well as lawyer, would prefer that the Chair, exercising the discretion lodged in him, and the confidence of every member of this Court, should first rule upon this question. I feel the utmost confidence in the Chair's legal ability, his fairness and his judgment in regard to this matter, much better than I would trust myself or many other members of this Court, and it seems to me that it would be better, with all due respect to the Chair and his conclusions in the matter, that the Chair decide this question for the Court, and if any Senator differs, under the rules, he has the right to appeal from the ruling of the Chair. I just submit those suggestions for the consideration of the Chair.

Senator Hopkins: Will the Senator from Dallas yield to a question?

Senator McNealus: I am speaking to the Chair and not to the Senate; I am speaking to the Chair exclusively.

Senator Hopkins: Does the Senator from Dallas decline to yield?

The Chair: The Senator from Dallas declines to yield.

Senator McNealus: I hope the Chair will relieve the Senate as ?

body from passing on this question until after the Chair himself, who has more legal ability, I know, than many of us, because we have none, I would rather trust the Chair than to trust the remainder of the Court to act individually by voting on a question that involves large legal propositions. I, for one, am willing, and would prefer that the Chair should decide this, than to cast a vote on it myself.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: The President of this Senate knows that there is no man within the confines of this Senate whose legal judgment I would more gladly yield to and accede to, but I submit that this goes at this time beyond that question. I am a Senator of Texas upon this floor. I do not want and will not appeal from any decision this Chair might make. Upon the other hand, I do not want my position to be clouded or ambiguous or not known in this matter, and the only way, if the Chair submits it—if the Chair decides it himself, the only way that Senators can make their position known—because at last we are accountable to our constituents in this matter, is by an appeal from the Chair's ruling. That ought not to be required. The Chair, I suggest in deference to the Senator from Dallas, ought to submit this question to the Senate.

Senator Gibson: Will the Senator from Bexar yield?

Senator Bee: Just a second. And let the Senators vote on this question so that the Senators will state their position in this matter, and not have it left to conjecture or discussion as to how this Senator or that Senator stood upon this very important matter.

Senator Gibson: Will the Senator from Bexar yield?

Senator Bee: I yield.

Senator Gibson: I just want to call the attention of the Senator from Bexar to the fact that the rules, if I understand the rules correctly, leave it within the discretion of the Chair as to whether he shall put it to a vote of the Court or whether he shall rule himself.

Senator Bee: I understand—

Senator Gibson: Therefore, it occurs to me that this is all out of order, and the Chair has already an-

nounced his intention to submit it to the Court.

Senator Bee: The only reason I made the statement, I will say to the Senator from Fannin, was the Senator from Dallas suggested that the Chair decide it, and I was only discussing that suggestion.

Senator Hudspeth: I think any Senator here has a right to give his views to the Chair and the Court without being knocked off his feet by an inquiry from the Senator from Dallas. Now, I am not endeavoring to shirk any responsibility; I shall vote on this as I believe is right, but I want to support the statement by the Senator from Dallas. The Chair is the head of this Court, and I have implicit confidence in him, and I have never yet appealed from any decision of the Chair, and I do not intend to do so. I take a different view—I have already discussed this matter with the Senator from Bexar—I take a different view of this question from the Senator from Bexar, but the Chair, being the head of this Court, it occurs to me that unless some Senator should ask that this question be submitted to this Court, that at this time—and I can state my reasons—that it might be taken, Mr. President, while I am sure it will not be an indication of what the final result of this vote might be, but it might be taken as a test vote upon this matter, and for that reason I would much prefer that the Chair should decide this question, and then if the Senator from Bexar does not want to abide by that decision, he has his right of appeal, or if he wishes to send up his reasons, or his views on the matter, he has the right to do that. While I shall vote on this question, I shall not run away from it, but it occurs to me at this time that it would be best at this stage of the proceedings for the Chair to decide this question.

The Chair: Are there any other Senators who desire to be heard? The Chair will state that he appreciates more highly than he can possibly express the confidence which the members of the Court have proclaimed in the judgment and fairness of the Chair.

Senator Hopkins: Mr. President.

The Chair: The Senator from Denton.

Senator Hopkins: To relieve the

Chair of any embarrassment, I request that the Chair submit it to the Court.

The Chair: The Chair does not feel any particular embarrassment, the Chair will submit it. The Chair was going on to state—or was going to state that he does not consider this entirely a question of law, whether the Respondent and witness should be required to answer this question; there are other questions incidentally involved, and for that reason the Chair does not feel like he should rule on it as a mere question of evidence, but, as he announced at the outset of the argument, he was disposed, or had decided, and still believes he should submit it to the Court as a whole; and, therefore, the Secretary will call the roll and let the Court decide whether the Respondent shall be required to answer the questions.

(Thereupon, the Secretary called the roll, the vote being as follows, to wit:)

Yeas—23.

Alderdice.	Johnson of Hall.
Bailey.	Johnston of Harris.
Bee.	Lattimore.
Buchanan of Bell.	McCollum.
Buchanan of Scurry.	McNealus.
Collins.	Page.
Dayton.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Henderson.	Westbrook.
Hopkins.	

Nays—7.

Caldwell.	Hudspeth.
Clark.	Parr.
Hall.	Woodward.
Harley.	

Present—Not Voting.

Dean.

Senator Bee: Mr. President, I ask leave to file my reasons.

The Chair: 'Very well.

Senator Collins: Mr. President, believing as I do, that this is not a criminal prosecution under the Constitution, and that the constitutional guarantee or bill of rights against requiring a man to give evidence against himself, has no application in this case, I vote "aye."

Senator McNealus: Mr. President, inasmuch as the Respondent voluntarily gave the information to the

House and has voluntarily given it here, that he did borrow this money, I feel that under the peculiar conditions surrounding the case, he ought to be required to answer, and I vote "Aye."

Senator Page: Mr. President.

The Chair: Senator Page.

Senator Page: If I may be permitted to state, I will file my reasons in writing. I think that a question of this kind is not to be decided according to the rule that applies in an ordinary court of justice where we are trying a criminal, I think that the Governor of Texas in this case has admitted upon the stand that he borrowed money from the Temple State Bank in excess of the loan limit, which the law allowed that bank to make; the testimony shows that those notes were afterwards transferred, endorsed by the Temple State Bank to the Houston National Exchange Bank, the Temple State Bank was still liable for them, that that debt was finally retired by this money which he has borrowed from unknown individuals; I think the Governor of Texas, therefore, stands upon a different basis, and I think that in a financial transaction of this magnitude, the circumstances as they are here—the money delivered to him in currency, not by checks upon any bank—I think that the people of Texas are entitled to know where the money was obtained, and, therefore, I vote "Aye."

The Chair (After the Secretary had counted the votes): There being twenty-three "ayes" and seven "noes," one present but not voting, the "ayes" have it, and the Respondent, by the judgment of the Senate, is required to answer the questions.

Senator McCollum: Mr. President, I desire to file my reasons for my vote.

The Chair: Yes, sir.

Senator Hudspeth: Mr. President, I desire to file my reasons for my vote, being that the Constitution of this State guarantees a man the right to refuse to answer that kind of question.

Reasons for Vote.

I vote "nay" for the reason that the matter as to whether the Governor shall or shall not answer this question is not material to the charge in the impeachment, in that

the charge is sustained against him when he refuses to answer.

HARLEY.

I vote "yea" for the reason that the Court should know and the people of Texas want to know and should know all about this transaction.

BUCHANAN of Bell.

I submit as my reasons for voting "yea" on the question whether or not Governor Ferguson shall answer questions propounded to him concerning the \$156,500—first, that the "Bill of Rights" does not refer to such questions in Section 9, relating to seizures and searches; second, that being a voluntary witness, he should disclose evidence, especially so in a cause not criminal; third, that the people of Texas, considering the amount of this loan, are interested in wishing to know all the facts in connection with this incident, and their wishes should be respected.

SMITH.

I vote "yea" on the question as to the right of Governor Ferguson to refuse to answer the questions propounded to him with reference to the loan of \$156,000. I deem it due that I should place in the Journal my reasons for my vote.

I appreciate the position the Governor takes, but do not believe it is in keeping with sound public policy or good government that the Chief Executive of the State keep secret a loan of the magnitude stated, and one made while the Legislature was in session and engaged in the passage of laws affecting many large interests, especially when, in order to make such laws effective the signature of the Governor was necessary. It is true that the Bill of Rights, Section 10, provides that the people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches, but the contention of the Governor is not applicable for the reasons that there is no seizure or search of papers contemplated in this proceeding, for if the Governor had answered the questions, and stated the names of the parties from whom he secured the money, together with the securities given, no seizure or search would have been necessary and the issue would have

been met without resort to any other source.

Again the Bill of Rights defines the seizure prohibited, as unreasonable, and therefore the question of unreasonableness would be a manifest inquiry.

When a party charged takes the stand in his own behalf he is as any other witness and must be prepared to meet every charge made, and places himself in a position to expect a searching examination of every matter, public or private, which will throw light upon the question involved.

There is a difference between the attitude of a private citizen and public officer. A private citizen has a right to transact his business in such a manner as suits him, unless his actions contravene the interest of the people. If the people's rights are contravened, the right of the citizen yields. The Chief Executive of the Commonwealth holds a position of such public moment that, in truth, it can be said that his every act, public or private, is of public moment.

I have not reached this conclusion without difficulty, nor without deep regret, for I realize the import and consequence, but the issue is before me, and I am prepared to meet it. The future of our Commonwealth demands that no man who holds a public office, representing the people shall be allowed to have transactions which raise a doubt as to their source and their bearing upon the public weal.

BEE.

Upon the proposition as to whether or not the Governor of Texas should be compelled to answer the question propounded by counsel for the House Managers as to where, when and from whom he borrowed and received the sum of \$156,500, and further requesting him to give the full detail of these transactions, I vote "yea" for the following reasons:

The Governor of Texas, occupying the exalted position to which he has been elected by the people, should not be allowed to withhold information as to where he received such a large sum of money, and especially under the circumstances surrounding this transaction, the evidence showing that the Governor was very much pressed for money and that all of

his private properties were encumbered with a debt aggregating about \$350,000, and having obtained the sum of \$156,500 in cash, without it clearly appearing that he had given those loaning him good and ample security for this sum of money, constitutes such a transaction as in my opinion he is not entitled to withhold from the people, and I therefore think he should be compelled to answer the questions propounded.

From a legal standpoint, the question is not free from difficulty, and I have not had an opportunity to fully investigate the authorities bearing upon the same, but being compelled to vote at this time I feel that I am fully justified in voting as above indicated, believing that all the facts and details of this transaction should be made known to the people of the State of Texas.

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In voting "yea" on this question, I am not unmindful of the value of the prerogatives that every citizen possesses under the Texas bill of rights. The legal interpretation of thoughts that arise in connection with that document can be handled more ably by lawyers than by a layman, and in casting my vote I have not attempted to make careful analysis as to aspects of the case that are touched by the bill of rights. The clear, basic phases of the issue that come to mind with so much force at this moment may be briefly stated as follows: I am firmly persuaded that, considering all the developments in connection with the procedure now under way in the Senate, as a matter of soundest public policy and regard for principles that appeal so earnestly to every citizen, that the Governor of Texas should feel it his duty to give the answer desired by the Senate. The chief executive of our State occupies an exceptional position. That "fierce light that beats around a throne" vibrates with no less force around the man who, by the vote of his people, has been given the highest office, most important trust, that that people were able to bestow upon him. He is looked to, and rightly, as the one man who by virtue of his position, his authority and his influence, is the man to whom the people look as an exemplar of all that is upright and commendable in civic life. To my thinking, he should

not be so situated as to be unable to give at least the chief details of a transaction of such magnitude.

I am persuaded that if the Respondent could have had his own consent to give to the Senate the desired information, there would be cordial and sympathetic appreciation, not only of his action, but of the stress that he is now undergoing, and I had hoped that he might be able to see his way clear to such a course. It is easy to understand how one situated as he was could appreciate the measure of the friendship that came to his relief at a time when friends were so sorely needed, but it is also equally easy to understand the feeling of the people of this commonwealth that they have the right, in a time like this, to look with confidence to the clear and frank statements of the man they have honored, who is looked to as an example, and after a manner that will vindicate the confidence thus felt. It is needless to dwell upon the regret that must have come to more than one Senator as he recorded his vote on this question, but as a challenge to highest duty there was no alternative, at least in the view of the writer.

McCOLLUM.

Thereupon, the Respondent,

JAMES E. FERGUSON

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

Senator Bee: Let's have order, Mr. President.

Senator Buchanan of Bell: Mr. President, I would like to file my reasons.

The Chair: All right. (To Counsel): Proceed, gentlemen.

Cross Examination

Resumed by General Crane.

Q. Governor, you have heard the decision of the Court, and you recall in substance the question that I propounded; first, from whom did you get this money—this \$156,500, in currency, when did you get it, under what—where did you get it and under what circumstances?

A. Believing that I have the legal right to decline to answer that question, I must persist in the answers which I have heretofore given,

and I mean—in doing so, I mean no disrespect to this Senate, I believe honestly and candidly that I have that legal right, and that in so failing to state, that no court of this country would hold me guilty of contempt—and thus honestly being of that belief, I must persist in the answers heretofore given in answer to that question.

Q. That is, you decline, in order to get the record straight, you decline to tell from whom you received this money, or any part of it?

A. Yes, sir.

Q. You decline to tell when and where it was delivered to you?

A. Yes, sir.

Q. You decline to tell who delivered it?

A. Yes, sir.

Q. And you decline to tell the names of any of the parties from whom it was obtained, either directly or indirectly?

A. Yes, sir.

Q. You decline also to state whether you gave any security for this large sum of money, or not?

A. Yes, sir; all for the same—for the reasons stated.

Q. I understand, all of them based on the same reasons?

A. Yes, sir.

Q. There will be no misunderstanding about that. You decline to state whether or not you gave a note or notes for that money, or any part of it, and the rate of interest that that note or those notes bore?

A. Yes, sir.

Q. You decline to state, also, when the same, or any part of it, is or will be due?

A. Yes, sir.

Q. I understand you to also decline to answer either of the questions propounded by the Senator from Anderson that were read just before adjournment, I believe?

A. Yes, sir.

General Crane: That is all, Mr. President.

The Chair: Any further questions for the witness by counsel?

Mr. Hanger: Yes, sir.

The Chair: Take the witness.

General Crane: Now, Mr. President, I am going to insist that the witness ought not to be permitted to answer any other question propounded by his counsel until he answers the ones that this Court ruled on,

relating to any other matter, because I am not asking to have him punished for contempt, and I do not think that the Governor can come here as a Respondent, whether the Court punishes him or not, and decline to answer certain questions, and then be interrogated as to others.

The Chair: The Chair will state that he does not feel that he has the power to accede to or enforce a request like that, there is no rule of the Court that can be invoked in support of it.

General Crane: Yes, sir.

Mr. Hanger (to the Chair): Shall I go ahead?

The Chair: Yes, sir.

Re-direct Examination
By Mr. Hanger.

Q. Let me get those notes that we have made (referring to memorandum). Governor, yesterday afternoon—sometime yesterday, General Crane was asking you about the University, or some question, or something was asked, or you made some statement about the plank in the El Paso platform. Who wrote that plank on education in the El Paso platform?

A. I did, I did.

The Chair: Let's have order in the galleries.

Q. General Crane asked you about \$10,000 that was covered back into the Treasury. Do you know whether that was covered out of the salary fund or out of the available fund?

A. I understood it was out of the available fund, and not as a part of the—or out of the appropriation.

Q. Yes? A statement was made there about a parallel between the budget and the appropriation bill. Did you read about the School of Journalism in that parallel?

A. No, sir, I did not.

Q. Why—is it embraced in that parallel?

A. Yes, sir.

Mr. Hanger: Now, if we did not do that yesterday afternoon, Mr. President—

The Chair: We would like for those in the galleries, if they cannot stay until five o'clock, to get out very quietly, you are disturbing the proceedings down here, and we can not permit that.

Mr. Hanger (resuming his state-

ment): If we did not do that yesterday afternoon, and if it is not sufficiently in evidence, we desire, without formally reading it, Mr. President, to introduce that budget and—I believe the appropriate bill was offered by General Crane—if it was not, why, let that be offered—

General Crane: Yes, the appropriation—

Mr. Hanger: —together with the parallel.

The Chair: Yes, sir, the appropriation bill?

Mr. Hanger: Yes, sir, and we will furnish that to the stenographers.

[Note by the stenographers—Mr. Hanger later, after adjournment, informed the stenographers that they need not copy the document just above offered].

Q. (Mr. Hanger resuming): General Crane also asked you about the—something about the trip to New York, in which Mr. McDonald went along with you. Was that matter submitted to the March Committee?

A. Yes, sir, fully explained and gone into in every detail.

Q. Did you ever hear read, or have you read, the report of that committee?

A. I think they endorsed that expenditure.

Q. Yes? Now, he asked you about the—what is called the "chicken salad items," of groceries purchased. What did the vouchers show whenever those purchases were made?

A. The vouchers showed a complete description of the articles and naming them, so that they were easily intelligible, for what they were.

Q. If it was butter—?

A. It said butter.

Q. If it was flour, it said "flour"?

A. Eggs, flour or gasoline.

Q. Yes, sir?

A. Or whatever the thing was.

Q. Now, was the bank question gone into in the March investigation?

A. Most exhaustively.

Q. This question of loans and overlines?

A. Absolutely every bit of it, I was asked at length about it.

Q. You heard General Crane read here yesterday afternoon, I think it was; Section 89 of the Banking Laws?

Mr. Hanger (To General Crane): Is that the right number?

General Crane: I believe it is, I am not certain.

Q. Well, at any rate, about the banking law and loan limits, and the exceptions also. In view of that, do you admit that your overline was a violation of the law?

A. It might technically have been; but according to the spirit of the statute it was not.

Q. Well, you heard the exception read there, the agricultural products?

A. Agricultural products,—in the first place, the indebtedness of the Bell-Bosque Stock Farm should be segregated from the amount of my personal indebtedness in arriving at the loan limit, and it would not under any rule of law be permitted in determining the line of credit to add the two together, and I thought the calculation would show that what I was entitled to under the law, added to the amount paid for cattle and agricultural products would put the amount of the loan reasonably within the limit.

Q. Yesterday morning General Crane read you Section 23 of Article 4 of the Constitution, in which the language is employed in reference to fees for services rendered by such officials, or in their offices. Do you understand whether or not there is any difference between the fees of that—of the Secretary of State's office and franchise taxes?

A. Oh, that is apparent, they were certain fees for services rendered as stated in the Constitution.

Q. Well, do you understand—he also read you Article 3837, 3838 and 3839 of the Revised Civil Statutes—do you understand what Articles 3837 and 3838 refer to? I think I have those numbers right.

Mr. Henry: 3837, 3839.

Mr. Hanger: 3837 and 3838, I think it is, better let me be certain (referring to books).

The Chair: Let us have order in the Court.

Sergeant-at-Arms: Be quiet, please.

Q. Now, he read to you Article 3840, which reads: "All fees mentioned in Article 3837 and 3838 shall be paid in advance into the office of the Secretary of State, and shall be by him paid into the State Treasury monthly." Do you understand that that refers to franchise taxes?

A. A reading of the statute will disclose that it does not refer to

franchise taxes and does not include franchise taxes.

Q. Now, Governor, he read to you several articles with reference to fees. Do you understand that the law in reference to the payment of franchise taxes comes under an entirely different chapter?

A. My recollection is that there is another statute which you will find there in reference to the payment of franchise taxes into the Treasury.

Mr. Hanger: We offer, not the whole act, because that would encumber the record, but we offer Chapter 3 of Title 126 on the subject of franchise taxes, reading only by number so as to curtail what it is necessary to copy into the record under that Chapter: Article 7393, Article 7394, Article 7395, Article 7396, Article 7397, Article 7398, Article 7399, Article 7400, Article 7401, Article 7402, Article 7403, Article 7404, Article 7405, and Article 7406, being all of the articles embraced in that Chapter. If anyone desires the articles in or read, we will do that, but only for saving the record we will not read it.

Q. Now, Governor, I think you answered this, but I made a note on it: Did you consult or examine the statements furnished by the American National Bank or the Temple State Bank?

A. No, sir.

General Crane: He answered that.

Mr. Hanger: Yes, General, I am sure he did, but I had a note on it, and for fear he hadn't, I asked it.

Q. General Crane asked you if you objected to Mr. Patterson's depositing money in the Temple State Bank. Did you know anything about it until after it was already done?

A. No, sir.

Q. Did you yourself have any knowledge, after you left the Temple State Bank and ceased to have any connection with its management, about the two per cent on monthly balances in other banks?

A. No, sir, not further than the general custom.

Q. They asked you yesterday afternoon, I believe it was—yes, just at adjournment yesterday afternoon, I think it was—about the receipt that you got from Governor—that you gave Governor Colquitt—strike out that misstatement that "you

got"—that you gave Governor Colquitt for the Canyon City fund?

A. Yes, sir.

Q. You looked through your—

A. Yes, sir, I found it.

Q. —your papers. Did you find it?

A. I found I had it here in the wallet at the time, but it was attached to other papers and I overlooked it.

Q. Well, now, you had better submit that receipt to the other gentlemen, because they haven't seen it. This, of course, would be a copy?

A. This was a copy.

Q. Governor Colquitt had the original. Maybe we had better detach that? That is a copy (hands same to General Crane). Now, as to the balance of the funds, I believe—if I may lead him just as to this—

General Crane: Wait just a moment.

Mr. Hanger: Yes.

Q. The balance of the funds, you have a letter there that pertains to it. You had better let us have that—written you by Governor Colquitt on the 24th of January, if my memory is right.

(Witness hands letter to Mr. Hanger).

Q. The 24th of January. You said that there was a little difference, a day or two, I think you said, in the time you received these amounts?

A. That is my recollection about it.

Q. It appears that Mr. Davis sent a small deposit of that money to the Temple bank on the 20th of January?

A. I don't recall about that.

Mr. Hanger: Have you seen that?

General Crane: Yes, sir.

Mr. Hanger: Well, this shows—

A. (Interrupting): Better read that letter.

Mr. Hanger: I am going to, and this receipt, so as to show it came at different times. I will read this, if there is no objection, while you are looking at that?

General Crane: No objection.

(Thereupon Mr. Hanger read the following):

Governor's Office,
Austin, Texas.

Received of O. B. Colquitt authorized deficiency warrants belonging to

the Canyon Normal School fund amounting to \$4,846.45; one interest bearing deposit certificate of the Third National Bank of Plainview, Texas, for \$25,000; one interest bearing deposit certificate of the First National Bank of Canyon for \$15,000, and various vouchers covering advertisements for bids and architect's fees amounting to \$2,170.37.

.....
Governor.

Jany. 21, 1915.

(The following in pencil):

\$ 4,849.45	102,856.30
25,000.00	2,170.37
15,000.00	\$100,685.93
2,170.37	607.07
\$ 47,016.82	166.40
10,000.00	
\$ 57,016.82	66.67
45,839.48	81.11
\$102,856.30	\$101,607.18

Mr. Hanger: That is not signed, of course, but that was the copy?

Q. Now, who made the figures on the bottom there and when were they made?

A. I made those figures.

Q. Was that a calculation of yours as to the amounts?

A. Yes, sir.

Q. After you received all of the money?

A. Yes, sir.

Mr. Hanger: Now, we read this letter: (reads)

Austin, Texas, Jan. 24, 1915.

Hon. Jas. E. Ferguson, Governor,
Austin, Texas.

Dear Sir: I am leaving the City of Austin tonight and on that account will not have the opportunity of calling in person to wind up the account of the Canyon Normal School. I have requested the President of the First National Bank of Amarillo to transfer the account with that bank to you as Governor. I am handing you herewith letter from Mr. Fuqua, with statement and canceled checks, which shows checks given in payment for deficiency warrants of the Blind Institute, and showing that there is a balance in the bank of \$45,533.62.

I will request Mr. Bowman to hand this to you, and check the matter

over, and make final disposition of the matter.

Yours truly,

(Signed) O. B. Colquitt.

Q. Now, going to the first letter here—

The Chair: Let's have order in court, please.

Q. Going to the first letter here, Governor, these vouchers, the various vouchers, which amount to \$2,170.37, have you those vouchers in any form there?

A. Yes, sir.

Q. What are they—in what form?

A. They are in the form of checks given by Governor Colquitt.

Q. For the items that he stated?

A. Yes, sir.

Q. They amounted to \$2,170.37, or approximately that, at least?

A. Yes, sir.

Q. Now, he says here he is handing you herewith a letter from Mr. Fuqua with statements and canceled checks and so forth. Have you those there?

A. Yes, sir.

Mr. Hanger: We desire to introduce all the papers in reference to that showing the receipt of that money, Mr. President.

General Crane: No objection.

Mr. Hanger: Counsel says there is no objection.

The Chair: Do you want to read them now?

Mr. Hanger: Well, I think not, because that will take a useless consumption of time. We will just turn them over to the stenographer and let him copy them all, including the checks.

[Note by Reporters: The papers and checks above referred to were retained by the witness, but will appear in the proceedings of Friday, Sept. 21, 1917.]

Mr. Harris: Senator, may I see those two letters?

(Judge Martin handed said letters to Mr. Harris.)

Mr. Hanger: We will turn those papers over to the stenographer, but we have got to get them in order.

The Chair: Any further questions?

Mr. Hanger: Yes, sir, just a moment.

General Crane: Let's see that statement.

Mr. Hanger: Well, we will in a moment. They are not quite together.

Mr. Hanger: Mr. President, we think this is all the inquiry. I will be very candid with the Chair. There occurs to me to be something that I overlooked.

Senator Bee: Mr. President?

The Chair: Just a moment,

Senator Bee: May I ask Senator Hanger, unless he has concluded—we have had rather a strenuous day here—whether it would expedite matters for him if the Court would rise—

Mr. Hanger: I was going to ask you to just let us go over our notes.

Senator McNealus: Speak a little louder.

Mr. Hanger: I was going to make the admission here that I have some notes here which I can't read, and I want to consult with my associates.

Senator Bee: Do you think anybody else can read them?

Mr. Hanger: No, I believe not. Mr. President, I don't want to cause any postponement, but if I have omitted anything—

General Crane: This is all you want to do this afternoon?

Mr. Hanger: Yes.

Senator Bee: Well, taking my official designation, I move that the Court rise to meet tomorrow morning at 10 o'clock.

Senator Alderdice: Mr. President, I want to ask unanimous consent to be recorded as voting "aye" on the question of the hundred and fifty-six thousand dollars. I was out at the time the vote was taken.

The Chair: Senator Alderdice desires unanimous consent to be recorded as voting "aye" on the question stated by him. Is there objection? There is none, and the Clerk will so record him. The question now is on the motion of Senator Bee to rise to meet at 10 o'clock tomorrow morning. Those in favor of the motion will signify it by saying "aye," those opposed, "no." The motion prevails and we will recess until 10 o'clock tomorrow morning.

Thereupon, at 5 o'clock p. m., the Court recessed until 10 o'clock a. m., Friday, September 21, 1917.

In the Senate.

(President Pro Tem. Dean in the chair, at 4:50 o'clock p. m.)

Bill Signed.

The Chair (President Pro Tem. Dean) gave notice of signing, and did sign in the presence of the Senate, after its caption had been read, the following bill:

S. B. No. 13, A bill to be entitled "An Act to establish and maintain at the Ferguson Farm in Madison County, or the Shaw State Farm in Bowie County, Texas, a school for the education and training of delinquent and incorrigible negro boys, to be named and known as the State Training School for Negro Boys, etc."

Senate Bill No. 29.

(By unanimous consent.)

On motion of Senator Decherd, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 29 put on its second reading by the following vote:

Yeas—26.

Bailey.	Henderson.
Bee.	Hopkins.
Buchanan of Bell.	Hudspeth.
Buchanan of Scurry.	Johnson of Hall.
Caldwell.	Johnston of Harris.
Clark.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Gibson.	Strickland.
Hall.	Suiter.
Harley.	Westbrook.

Absent.

Alderdice.	Parr.
Floyd.	Woodward.
Lattimore.	

The Chair laid before the Senate, on second reading:

S. B. No. 29, A bill to be entitled "An Act to create a more efficient road system for Madison County or any political subdivision of said county, etc., and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Decherd, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 29 put on its third reading and final passage by the following vote:

Yeas—25.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Suiter.
Hall.	Westbrook.
Harley.	

Absent.

Floyd.	McCollum.
Gibson.	Parr.
Lattimore.	Woodward.

The bill was laid before the Senate, read third time and, on motion of Senator Decherd, was passed by the following vote:

Yeas—25.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Suiter.
Hall.	Westbrook.
Harley.	

Absent.

Floyd.	McCollum.
Gibson.	Parr.
Lattimore.	Woodward.

House Bill No. 5.

(By unanimous consent.)

The Chair laid before the Senate, on third reading:

H. B. No. 5, A bill to be entitled "An Act to amend Chapter 105 of the Acts of the Regular Session of the Twenty-ninth Legislature, which chapter is entitled 'An Act to pre-

vent the diversion of electric current, water or gas from passing through any meter, and prevent any electric, water or gas meter by any manner or means from registering the full amount of current of electricity, water or gas that passes through it, and to prevent the diversion from any wire of electric current, water or gas, of any person, corporation or company engaged in the manufacture or distribution of electricity, water or gas, for lighting, power or other purposes; and to prevent the retaining of, or refusing to deliver any meters, lamps or other appliances which may have been loaned or supplied for furnishing electricity, water or gas; and to prescribe a penalty for the violation thereof; so amending said chapter as to make the presence on or about such meters, wires and pipes of any device for the diversion of electric current, water or gas, or for the prevention of the proper action or registration of the meter prima facie evidence of intention on the part of the user to defraud, within the scope of such chapter, and so amending said Act as to effect more fully the purposes thereof, and to repeal all laws in conflict herewith."

The bill was read third time and Senator Bee offered the following amendment, which was read and adopted by unanimous vote:

Amend bill by striking out Section 1 and inserting in lieu thereof the following:

Section 1. Whoever, intentionally, by any means or device, prevents electric current, water or gas from passing through any meter or meters belonging to a person, corporation or company, engaged in the manufacture or sale of electricity, water or gas, for lighting, power or other purposes, furnished such person to register the current of electricity, water or gas, passing through meters, or intentionally prevents a meter from duly registering the quantity of electricity, water or gas supplied, or, in any way, interferes with its proper action or just registration, or without the consent of such person, corporation or company, intentionally diverts any electric current from any wire, or water or gas from any pipe or pipes of such person, corporation or company, or otherwise intentionally uses, or causes to be used, without the consent of such person, corporation or company any elec-

tricity or gas manufactured, or water produced or distributed, by such person, corporation or company, or any person, corporation or company who retains possession of, or refuses to deliver, any meter or meters, lamp or lamps, or other appliances which may be, or may have been, loaned them by any person, corporation or company for the purpose of furnishing electricity, water or gas, through the same, with the intent to defraud such person, corporation or company, or, if any person, corporation or company engaged in the manufacture or sale of electricity, water or gas for lighting, power or other purposes, shall knowingly misread any meter or overcharge any customer for such light, water or gas furnished, shall, for every such offense, be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars. Every person, firm or corporation engaged in the business referred to in this Act shall keep displayed at all times in a conspicuous place in their office, a printed copy of this law.

The bill was laid before the Senate, read third time and, on motion of Senator Bee, was passed finally.

Senator Bee moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 3.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 3, A bill to be entitled "An Act to provide for the relief of citizens of Texas suffering by reason of the severe drouth now existing, to make appropriation therefor, prescribing the manner in which it shall be handled and distributed, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator McNealus, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 3 put on its third reading and final passage by the following vote:

Yeas—20.

Alderdice.	Henderson.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Collins.	Lattimore.
Dayton.	McNealus.
Floyd.	Parr.
Gibson.	Robbins.
Hall.	Smith.
Harley.	Westbrook.

Nays—3.

Caldwell.	Suiter.
Page.	

Present—Not Voting.

Bailey.	Hopkins.
Dean.	

Absent.

Clark.	Strickland.
Decherd.	Woodward.
McCollum.	

The bill was laid before the Senate and read third time.

Senator McNealus moved to lay the bill on the table until after the conclusion of the morning call tomorrow.

The motion prevailed.

Message from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 22, A bill to be entitled "An Act making additional appropriations for the support of the State government for two years, beginning September 1, 1917, and ending August 31, 1919, as follows, to wit: For the salaries of special district judges, for fees and costs of sheriffs, attorneys and clerks in felony cases, for the salary of Assistant Adjutant General and the quartermaster of the Adjutant General's Department, for the salary of the Chief Inspector of Nurseries for the Department of Agriculture, for the salary of the State Revenue Agent, for the salary of the chief clerk of the Game, Fish and Oyster Commissioner's Depart-

ment, for the salary of the Bacteriologist of the State Health Department, for the salary of the Commissioner of Labor, for the salaries of four inspectors in the Labor Department, for the salaries of two chemist in the Pure Food Department, for the salaries and expenses for collecting fees under the Pure Food Laws, for stamps to be used in the collection of fees in the Pure Food Department, for the salary of the porter in the Attorney General's Department, for the salary of the Commissioner of Insurance and Banking, for the salary of the Superintendent of the State Orphans' Home, for the salaries of twelve non-graduate nurses for the first year at Tuberculosis Sanitarium, for salaries of three assistants to the Inspector of Masonry and for material tests and analysis, long distance telephone, telegraph, express and freight charges and incidentals and traveling expenses for the Department of Inspector of Masonry, and to pay miscellaneous claims, and for other purposes; prescribing certain regulations and restrictions in respect thereto; repealing parts of laws heretofore passed making appropriations for the particular items named in this bill, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bill Read and Referred.

The Chair, President Pro Tem. Dean, had referred after its caption had been read, the following House bill:

H. B. No. 22, referred to the Committee on Finance.

Adjournment.

At 5:15 o'clock p. m. the Senate, on motion of Senator McNealus, adjourned until 9:30 o'clock tomorrow morning.

APPENDIX.

Engrossing Committee Reports.

Committee Room,

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Engrossed

Bills has had Senate Bill No. 26 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred S. B. No. 3, A bill to be entitled "An Act to provide for the relief of the citizens of Texas suffering by reason of the severe drouth now existing, to make appropriation therefor, prescribing the manner in which it shall be handled and distributed, and declaring an emergency."

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed, because same has already been printed in the Senate.

BAILEY, Chairman.

(Floor Report.)

Senate Chamber,
Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

S. B. No. 29, A bill to be entitled "An Act to create a more efficient road law for Madison County," etc., and declaring an emergency,

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

Caldwell, Gibson, Buchanan of Scurry, Strickland, Smith.

(Floor Report.)

Senate Chamber,
Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: Your Committee on Finance, to whom was referred

S. B. No. 24, A bill to be entitled "An Act making an appropriation out of the general revenue for additional support of the Game, Fish and Oyster Department for the fiscal

years ending August 31, 1918, and August 31, 1919,"

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass and that it be printed only in the Journal.

Hudspeth, Chairman; Caldwell, Bee, Johnson of Hall, Westbrook, Hopkins, Page, Decherd.

S. B. No. 24. By Caldwell.

A BILL To Be Entitled

An Act making an appropriation out of the general revenue for additional support of the Game, Fish and Oyster Department for the fiscal years ending August 31, 1918, and August 31, 1919, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That the following sums of money, or so much thereof as may be necessary, be and the same are hereby appropriated out of any money in the State Treasury not otherwise appropriated, for the additional support of the Game, Fish and Oyster Department of the State of Texas, for the fiscal years ending August 31, 1918, and August 31, 1919:

For the years ending
Aug. 31,
1918. 1919.

Salary of mate of		
the Cecelia W.	\$600.00	\$600.00
Salary of captain		
for the Honest		
Jim	\$900.00	\$900.00

Sec. 2. The fact that the items hereinabove appropriated were by mistake inadvertently omitted from the General Appropriation Bill enacted by the First Called Session of the Thirty-fifth Legislature, and the further fact that the officers for whom a salary is herein appropriated are indispensable to the efficient and proper administration of the fish laws of this State, create an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and such rule is so suspended and this Act take effect from and after its passage, and it is so enacted.

(Floor Report.)

Senate Chamber.

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred Senate Bill No. 25, being an Act to make an emergency appropriation to repair the North Texas Hospital Buildings for the Insane at Terrell, and to construct and equip a sewage disposal plant at said hospital,

Have had the same under consideration and beg to report the same back to the Senate with the recommendation that it do pass and that it be printed only in the Journal.

Hudspeth, Chairman; Caldwell, Bee. Johnson, Westbrook, Hopkins, Page, Decherd.

By Robbins.

S. B. No. 25.

A BILL
To be Entitled

An Act to make an emergency appropriation to repair the North Texas Hospital Buildings for the Insane at Terrell, and to construct and equip a sewage disposal plant at said hospital for the insane, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the sums hereinafter set out or so much thereof as may be necessary be appropriated out of any funds in the State Treasury, not otherwise appropriated, for the repair of the buildings of the North Texas Hospital for the Insane at Terrell, and for the construction and equipment of a sewage disposal plant at said hospital for the insane, to wit:

For repairs to buildings....	\$ 7,000.00
To construct and equip sewage disposal plant	11,000.00

Sec. 2. The fact that one of the buildings of the North Texas Hospital for the Insane has recently cracked and is in a very dangerous condition, and for the further fact that said hospital for the insane at Terrell is urgently in need of a sewage disposal plant creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three sev-

eral days, and said rule is hereby suspended, and this Act be in force from and after its passage, and it is so enacted.

Committee Room.

Austin, Texas, Sept. 20, 1917.

Hon. W. L. Dean, President of the Senate:

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 27, A bill to be entitled "An Act to prohibit the bringing of suits in this State to collect delinquent taxes until on and after the 31st day of January, A. D. 1919, and to continue all such suits now pending until such time, and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back to the Senate, with the recommendation that it do pass and be not printed, but be printed in the Journal.

BAILEY, Chairman.

By Bailey.

S. B. No. 27.

A BILL
To be Entitled

An Act to prohibit the bringing of suits in this State to collect delinquent taxes until on and after the 31st day of January, A. D. 1919, and to continue all such suits now pending until such time, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That no suit shall hereafter be brought by the county or district attorneys of this State for the collection of delinquent taxes heretofore or hereafter delinquent under the provisions of Chapter 147, General Laws, passed by the Regular Session of the Thirty-Fourth Legislature, until on and after the 31st day of January, A. D. 1919; and all suits heretofore filed for the collection of delinquent taxes, under the Act of the Legislature above named, shall be continued on the dockets of the court until said date; however, after said date said suits so continued shall be tried and county and district attorneys shall file suits for collection of delinquent taxes under said Act.

Sec. 2. The fact that there has prevailed throughout a greater portion of the State a drouth of unprecedented severity, entailing great hardships on many thousands of citizens

of this State to such an extent that many thousands are unable to pay their taxes, and the fact that this is a Called Session of the Legislature and must end within a very few days creates an emergency and an imperative public necessity, which requires that the constitutional rule, providing that bills shall be read on three several days, be suspended, and said rule is hereby suspended, and that this Act take effect, and be in force, from and after its passage, and it is so enacted.

SIXTEENTH DAY.

Senate Chamber,
Austin, Texas,

Friday, September 21, 1917.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

There were none today.

Committee Reports.

See Appendix.

Bills and Resolutions.

Senate Concurrent Resolution No. 3.

Whereas, It is necessary that copies of all enrolled bills in both the Senate and House be furnished to the State Printer by the Secretary of the State, and by such copies being furnished much time and expense can be saved the State; therefore, be it

Resolved by the Senate, the House of Representatives concurring, that the Enrolling Clerk of the Senate and the Enrolling Clerk of the House of Representatives be directed to make carbon copies of all enrolled bills that are sent to the Governor for his approval and be directed to furnish same to the Secretary of State. Said Enrolling Clerks of the Senate and House are hereby further instructed to immediately deliver to the office of Secretary of State copies of all enrolled bills passed by the Second Called Session of the Legislature, 1917.

CALDWELL.

The resolution was read and adopted.

Senate Concurrent Resolution No. 4.

Whereas, The Supreme Court of the United States in a recent decision has held to be unconstitutional the law under which the cotton tax fund was collected by the Federal government, and,

Whereas, Owing to the great number from whom it was collected and the difficulty of the establishment of the individual rights thereto, and

Whereas, The money has remained in the Federal Treasury for a half century unclaimed; and it becomes more and more difficult to establish a claim as time goes by, and

Whereas, There are none more worthy or who more truly represent the spirit of the South than those confederates from whom the taxes were collected and their widows, and

Whereas, If the Congress of the United States should appropriate money to repay these taxes it would enable the survivors of the confederacy to pass their remaining years in comparative comfort, and

Whereas, Said veterans and their decendants have proved their loyalty to their country by following the flag: